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THE TRENT AFFAIR

INCLUDING A

REVIEW OF ENGLISH AND AMERICAN RELATIONS
AT THE BEGINNING OF THE CIVIL WAR

BY THOMAS L. HARRIS, A. M.

WITH AN INTRODUCTION BY

JAMES A. WOODBURN, PH. D.

Professor of American History in the Indiana University.

INDIANAPOLIS AND KANSAS CITY:
THE BOWEN-MERRILL COMPANY
1896.

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INTRODUCTION.

THE history of the diplomatic relations between Great Britain and the United States suggests an interesting and valuable field to the student of Anglo-American history and international law. It is a fertile field, still largely unworked. No one, so far as I know, has yet ventured upon an exhaustive and connected discussion of the important subjects which this theme involves. One of the most interesting and unwritten chapters in this history is to be found in the relations between Great Britain and the United States during our civil war, as illustrated in the case of the Trent and the discussion to which this case gave rise. Much has been written on this celebrated case. Mr. Harris has set for himself the task of examining the literature of the subject, of reviewing the original material, and placing in brief and accessible shape the important and essential features of the discussion. All who wish a ready access to a faithful review and complete resume of this notable chapter in our foreign relations will appreciate his service.

The right of search is historically a very interesting subject. On two notable occasions it brought us into serious collision with Great Britain. One of these occasions was in the war of 1812, the other in the affair of

the Trent in 1861. The war of 1812 is to be studied chiefly as a part of the history of international law. The reader who turns his attention to this war will, therefore, desire to bring within his view the history of the affair of the Trent. The merits of the two discussions, in 1806-1812 and 1861, are inseparable. Mr. Madison and Mr. Seward, the American contributors to the diplomatic literature of this discussion, are to be considered together. It will thus be seen that a competent account of the case of the Trent and the principles of public law which it involves brings within the view a pretty wide range of historical discussion.

One of the prominent causes of the war 1812 was the right, then claimed by Great Britain, of searching the vessels of the United States upon the high seas for British subjects, with the purpose of impressing them into the service of the British navy. The way in which Great Britain exercised this power of search did more than all other causes combined to arouse irritation and antagonism in America. Mr. Webster, in his correspondence with Lord Ashburton, in 1842, gave an American definition of this assumed right. "England asserts the right," says Mr. Webster, "of impressing British subjects in time of war out of neutral ships and of deciding by her visiting officers who among the crew of such merchant ships are British subjects. She asserts this as a legal prerogative of the crown, which prerogative is alleged to be founded on the English law of perpetual and indissoluble allegiance of the subject and his obligation, under all circumstances, and for his whole life, to render military service to the crown whenever required."

Great Britain did not renounce this right at Ghent in 1814, nor has she at any time since specifically surrendered it. But the right of search, for such a purpose as England then asserted it, is now obsolete. It is safe to say that it will never again be attempted in time of war against any vessel flying a neutral flag. American diplomacy has contributed not a little to this desirable result.

In 1861 a public armed vessel of the United States forcibly searched an English mail steamer for the purpose of recovering certain gentlemen who were claimed as citizen subjects of the United States. The act was not one of hostility toward England, nor as an act of search was it nearly so provoking as many which had been previously committed by Great Britain against us. The case arising out of this seizure is a subject of the first importance in our national history, and the result of the case, with the diplomatic discussion between Mr. Seward and Lord Lyons, may be said to have finally established, as permanent public law, the principle underlying the preceding historic American contention on this subject. The history of the case, its political aspects, the diplomatic discussions to which it gave rise, the principles of law which it has helped to establish, the opinions of eminent publicists, the conclusions of international law, and the relation of the case to preceding discussions,—these themes indicate the scope of Mr. Harris's essay.

JAMES A. WOODBURN.

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CHAPTER I.

RELATIONS WITH ENGLAND.

UNDISTURBED relations have not always existed between the two great branches of the Anglo-Saxon race on opposite sides of the Atlantic. The English colonies in the New World quarreled continually with their mother country. Finally revolution and war enabled the colonists to free themselves from English rule, although causes of dispute have ever continued to exist. A continuous record of the international difficulties between the United States and England would form no inconsiderable part of American history.

An almost unbroken succession of disputes has occupied the attention of statesmen in both countries for more than a century. The Federal government had scarcely been organized when the first serious cause of trouble arose. England claimed the right forcibly to visit and search American merchant vessels on the high seas in time of peace. Thousands of American citizens having been impressed into the British naval service, the arbitrament of war was resorted to. This did not decide the matter. The abstract right of search and seizure was steadily maintained by England for almost half a century after the close of the war of 1812. An

attempt to put it into practice again off the coast of Cuba in the spring of 1858 caused an outburst of popular indignation in every part of the United States, and American war vessels in Cuban waters were immediately ordered to resent such outrages at all hazards. This looked like war, and, without further delay, Great Britain abandoned the claim for which she had so long contended.[1] Boundary disputes were a cause of much agitation for many years. Long and tedious negotiation was required to adjust the northwestern boundary of the United States between Maine and New Brunswick. Although the American claims in this region were ably presented and fairly established, British writers have repeatedly asserted that the United States government, in this instance, accomplished its purposes by means which were unfair, unjust, and entirely unworthy of modern diplomacy.[2]

Scarcely had a treaty been concluded by which this boundary was settled when the Oregon question became one of great prominence, and in 1844, the alliterative campaign cry of "fifty-four forty or fight" testified to the serious character of the dispute. A settlement was finally effected by conceding most of the English claims, although ex-President John Quincy Adams and other equally noted Americans protested against what seemed to them a disgraceful surrender. The details of the various controversies caused by English conduct during

[1] See Schuyler's American Diplomacy, pp. 262–3.

[2] London Quarterly Review, No. 221, p. 261; Westminster Review, Vol. XXI, pp. 222–3. For a full discussion of the northwestern boundary question, see Winsor's Narrative and Critical History of America, Vol. VII, p. 180.

the American civil war are fresh in the memory of a generation still living. In our own time fishery disputes have tested the skill of diplomatists in both countries.

There has probably never been a time, however brief, in the history of the United States when absolutely no cause of difference existed between the two nations. At the present date (1895) one hundred seven presidential messages reviewing the state of the country have been submitted to the American congress at the opening of its regular sessions. It is a significant fact that seventy-eight of these messages—almost three-fourths of them —have called the attention of congress to difficulties of more or less importance with Great Britain. To the seventy-eight messages of the latter class every president has contributed except Garfield, Taylor, and William Henry Harrison.

Toward the close of the year 1860, however, British and American international affairs had assumed a much more favorable aspect than usual. All of the most perplexing and dangerous questions which had so long disturbed the relations of the two countries had been peaceably and finally settled. This result gave the greatest satisfaction to the people and government of the United States. In his message to congress at the opening of the session in December, 1860, President Buchanan said: "Our relations with Great Britain are of the most friendly character. Since the commencement of my administration the two dangerous questions arising from the Clayton-Bulwer treaty and from the right of search claimed by the British government have been amicably and honorably adjusted. The discordant

constructions of the Clayton-Bulwer treaty, which at different periods of the discussion bore a threatening aspect, have resulted in a final settlement entirely satisfactory to this government.

"It must be a source of sincere satisfaction to all classes of our fellow-citizens and especially to those engaged in foreign commerce that the claim on the part of Great Britain forcibly to visit and search American merchant vessels on the high seas in time of peace has been abandoned. This was by far the most dangerous question to the peace of the two nations which has existed since the war of 1812. While it remained open they might at any moment have been precipitated into a war.

"The only question of any importance which still remains open is the disputed title between the two governments to the Island of San Juan in the vicinity of Washington territory." It was evident that both countries were expecting this question to be settled without any trouble.

The president also said in the same message: "The recent visit of the Prince of Wales in a private character to the people of this country has proved to be a most auspicious event. In its consequences it can not fail to increase the kindred and kindly feelings which I trust may ever actuate the government and people of both countries in their political and social intercourse with each other."

Lord Lyons, the British minister at Washington, truly said of this message that its language was the most cordial in character of any which had ever appeared in

such a communication. The British government and people appeared to appreciate the friendship and good feeling for them which prevailed in the United States at that time. As an evidence of this fact Queen Victoria sent her son, the Prince of Wales, on a visit to the United States in the latter part of the year 1860—the event referred to in President Buchanan's message. The Prince was received everywhere with the hearty and enthusiastic welcome which was due to such a distinguished personage. After the visit had terminated, the British minister at Washington was directed to express the thanks of her majesty and to say to the president and citizens of the United States that one of the main objects which she had in view in sanctioning the visit of her son to America was to prove "the sincerity of those sentiments of esteem and regard which her majesty and all classes of her subjects entertain for the kindred race which occupies so distinguished a position in the community of nations." "Her majesty trusts," continued the British minister, "that the feeling of confidence and affection, of which late events have proved beyond all question the existence, will long continue to prevail between the two countries to their mutual advantage and to the general interests of civilization and humanity. I am commanded to state to the president that the queen would be gratified by his making known generally to the citizens of the United States her grateful sense of the kindness with which they received her son, who has returned to England deeply impressed with all he saw during his progress through the states, and more especially so with the friendly and cordial good-will mani-

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fested towards him on every occasion and by all classes of the community." [1]

This message was promptly answered by the American assistant secretary of state, who said among other things: "I am instructed by the president to express the gratification with which he has learned how correctly her majesty has appreciated the spirit in which his royal highness was received throughout the republic, and the cordial manifestation of that spirit by the people of the United States which accompanied him in every step of his progress. Her majesty has justly recognized that the visit of her son aroused the kind and generous sympathies of our citizens, and, if I may so speak, has created an almost personal interest in the fortunes of the royalty which he so well represents. The president trusts that this sympathy and interest towards the future representative of the sovereignty of Great Britain are at once an evidence and a guaranty of that consciousness of common interest and mutual regard which have bound in the past, and will in the future bind together more strongly than treaties, the feelings and the fortunes of the two nations which represent the enterprise, the civilization, and the constitutional liberty of the same great race." [2]

While the Prince of Wales was in the United States the London Times described his visit to the tomb of Washington at Mount Vernon and his planting a chestnut while there. The closing paragraph read as follows: "It seemed, when the royal youth closed the

[1] Lord Lyons to Gen. Cass, U. S. secretary of state, Dec. 8, 1860.

[2] Mr. Trescott to Lord Lyons, Dec. 11, 1860.

earth around the little germ, that he was burying the last faint trace of discord between us and our great brethren in the west." Other English newspapers, in commenting upon the prince's welcome in America, gave utterance to sentiments which were extremely cordial in character. Two extracts from leading London papers may be noticed. "Thus we believe an alliance has been consolidated which will endure for the mutual benefit, not only of the two nations, but of the civilized world." [1] "At no time could we desire more earnestly than we do now the close alliance of the great Anglo-Saxon family." [2]

Opportunities were soon to be offered for testing the sincerity of those recently expressed "sentiments of esteem and regard which her majesty and all classes of her subjects entertain for the kindred race which occupies so distinguished a position in the community of nations." South Carolina seceded December 17, 1860. Other states followed her example. A hostile government was organized within the territory of the United States. A war cloud was rapidly gathering upon the American political horizon. Lord Lyons duly reported all of these occurrences to his government. On February 4, 1861, in a communication addressed to Lord John Russell, the British minister for foreign affairs, Lord Lyons gave a detailed account of Mr. Seward's views concerning the state of the country and of his plans for securing the peaceable return of the seceding states to "the confederation." In this dispatch the American union is characterized as a "confederation."

[1] London Post, Nov. 16, 1860.

[2] London News, Nov. 16, 1860.

Since the adoption of the constitution no such use of the word "confederation" had ever been made in any diplomatic communication. It was indicative of the English view of the nature of the American union.

Lord John Russell replied to the above communication just two weeks before Mr. Lincoln was inaugurated. After saying that the success or failure of Mr. Seward's plans were matters of deep interest to her majesty's government and that it was not their duty to offer advice, Lord Russell said: "Supposing, however, that Mr. Lincoln, acting under bad advice, should endeavor to provide excitement for the public mind by raising questions with Great Britain, her majesty's government feel no hesitation as to the policy they would pursue. They would in the first place be very forbearing. They would show by their acts how highly they value the relations of peace and amity with the United States. But they would take care to let the government which multiplied provocations and sought quarrels understand that their forbearance sprung from the consciousness of strength and not from the timidity of weakness. They would warn a government which was making political capital out of blustering demonstrations that our patience might be tried too far."[1]

It is not easy to understand why Lord Russell should make use of such language at this time. Only seventy-two days before this dispatch was written, the most cordial feelings of "confidence and affection" for the American people had been professed in the communication concerning the visit of the Prince of Wales, and in

[1] Earl Russell to Lord Lyons, Feb. 20, 1861.

the meantime not an unkind word had been used in the correspondence of either government. His lordship may have seen in a settlement of the American domestic difficulties something which was unfavorable to British interests. The occasion certainly was not one which called for an offensive and unprovoked threat from the British minister for foreign affairs. He did not lose the opportunity, however, to utter an official warning to the American government that British patience "might be tried too far."

From many similar instances in the official career of that statesman, it is certain that Lord Russell himself never lost a favorable opportunity to "make political capital out of blustering demonstrations."

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CHAPTER II.

ENGLISH SYMPATHY FOR THE CONFEDERACY.

FROM the beginning of the secession movement the central aim of the Federal government and of the loyal people of the United States was to preserve the Union. It was the principle of union which had brought the American colonies together and enabled them to establish their independence. It was only after a "more perfect union" had been formed that prosperity and power at home and influence abroad had come to the United States as a nation. It was clearly seen that, if the principle of secession were once established, there would be nothing to prevent the great American commonwealth from crumbling into fragments. The honorable position of the United States among the nations of the world, as well as all of the good results at home which had been gained by more than three-quarters of a century of union, would be irretrievably lost. But these were not the only bad effects likely to follow successful secession. It was the avowed intention of the leaders of this movement to establish in the southern states a republic whose very corner-stone was slavery. With an immense slave population, with almost absolute control of the cotton supply of the world, with a people

that took pride in the military art, with able and experienced leaders, the founding and future success of such a republic would have been attended by evil consequences which no one could foretell.

For these reasons the government and loyal people of the United States earnestly hoped that the secession movement would not receive any support or encouragement from foreign nations, especially from England. The members of the English cabinet at that time were all bitterly opposed to slavery and had been in full sympathy with the great movements which had utterly destroyed it within the limits of the empire.

The existence of slavery in the South had caused much annoyance to the English government and people. Negro subjects of the queen were being constantly kidnapped in southern ports and sold into slavery. To obtain redress in such cases was impossible. The escape of fugitive slaves into British territory was another cause of much trouble. Only a short time before the secession movement began all England had been shocked by the report that a British captain had been tarred and feathered at Charleston for allowing a negro to sit down at the table with him in his own vessel. All of these matters, however, were quickly forgotten. From the very beginning it was evident that English sympathy was with the South. It was apparently forgotten that such a course meant support and encouragement for human slavery—that institution which was so abhorred by the people and statesmen of England. Consistency in this matter alone would seem to indicate that the British government and people could not afford to sympathize with any sort of movement which had for its

principal object the founding of a new republic especially to perpetuate and extend slavery. None of these considerations, however, seemed to exert any influence. With rare exceptions, the press, the people, and the government were heart and soul with the South in its efforts for the dismemberment of the American commonwealth. Mr. Justin McCarthy says: "The vast majority of what are called the governing classes were on the side of the South. London club life was virtually all southern. The most powerful papers in London, and the most popular papers as well, were open partisans of the southern confederation." [1] A writer in the Atlantic Monthly for November, 1861, says: "We have read at least three English newspapers for each week that has passed since our troubles began; we have been a reader of these papers for a series of years. In not one of them have we met the sentence or the line which pronounces hopefully, with bold assurance for the renewed life of our Union. In by far the most of them there is reiterated the most positive and dogged averment that there is no future for us."

Even the great and conservative English quarterlies aided the newspapers in their efforts to encourage and justify the secession movement. A writer in the Edinburgh Review discussed the situation in the United States. His ability to do this may be readily inferred from his assertion that, "under the existing constitution of the United States which the freemen of the North are in arms now to defend, slavery must be considered to form a part and parcel of the law of the Union." To establish this proposition he then quoted from an amend-

[1] History of Our Own Times, Vol. II, pp. 224-225.

ment to the constitution which, he said, provided that that instrument could never in future be so amended as to give congress power to abolish or interfere with slavery in any state. This, the writer said, was "the very last amendment or addition to the constitution passed on the 3d March of this year, that is, on the eve of President Lincoln's inauguration." In reviewing the condition of the people of the North he said: "They are fighting for territorial dominion." In defining for his readers just what was meant by "territorial dominion," he proceeded to tell them that it was "the power to enforce the will of the North over the South by superior force—to compel the minority, which is a local majority, to submit, in a word, to command the country and to subdue the people. If this be not the object for which the Americans of the Union are contending against the disunionists, we confess our inability to apprehend it, for no lesser object could justify a war conducted on such a scale."

A writer in the Quarterly Review said: "We believe the conquest of the South to be a hopeless dream, and the reunion of the states in one all-powerful republic an impossibility.

"There is verge and room enough on the vast continent of America for two or three, or even more, powerful republics, and each may flourish undisturbed, if so inclined, without being a source of disquiet to its neighbors. There will be no loss of anything which conduces to the general happiness of mankind. For the contest on the part of the North now is undisguisedly for empire.

"As to the attempt to subjugate the Confederate

[1] Edinburgh Review, Oct., 1861.

States, supposing it succeeded, what then? Is the North prepared to hold the South by the same tenure that Austria holds Venetia? And is there a statesman in the Union who believes that in future it could be held in any other way?

"But the idea of a federal republic of which the one-half is in deadly hostility to the other, and coerced into a hateful partnership, involves a practical contradiction. It would no longer be the union of free states but a tyranny." [1] The same writer confidently predicted secession among the northern states on account of excessive taxation and the hardships incident to war.

A writer in the Westminster Review said: "The North is fighting to defend an abstraction—the constitution—the South to defend his home, his wife and his children.

"Without nicely balancing the virtues of the contending parties, they (Englishmen) can not help believing that moderation, justice and national honor will find ampler development in a divided republic." [2]

Early in 1861 a prominent Englishman of Liverpool published a book designed to inform the British public concerning the American situation. This book was extensively circulated and did much to influence public opinion in England. The most extreme views of the secessionists were upheld and defended. The attempt to restore the Union was denounced as a lamentable delusion which had been undertaken as a result of excitement in the North. The author's position is well stated in the following quotation: "Secession is a just and

[1] London Quarterly Review, No. 221.

[2] Westminster Review, Vol. XXI, p. 212.

clear constitutional right of the states, and no violation of any enactment of the Federal compact." [1]

The queen in her speech from the throne, February 5, 1861, referred to American affairs and expressed a conventional wish that the "differences might be susceptible of a satisfactory adjustment." Concerning this expression Mr. Toumlin Smith soon afterward said: "Those last loose words are characteristic of the very loose notions that are common in England on the subject of what used to be the United States of North America. It is, from the very nature of the facts, no other than impossible that the 'differences' can be 'susceptible' (whatever that means) of satisfactory adjustment." [2]

Such expressions of opinion from these various sources, advanced so early in the great struggle and uttered with such confidence, were on many accounts most unwarranted and mischievous. The press was a most powerful factor in molding and directing English public opinion in favor of the Confederacy. Its course also tended to prejudice the Union cause in the eyes of the world and, at the same time, to establish the insurgent cause as a just one. This produced a corresponding degree of discouragement among the friends of the Union.

A very large majority of the most prominent public men of England never lost an opportunity to express unfavorable opinions concerning the northern cause. The following quotations are indicative of the sentiment which prevailed among them:

[1] Spence's "The American Union," p. 246.
[2] Parliamentary Remembrancer, Vol. IV, p. 3.

Sir Edward Bulwer Lytton: "I venture to predict that the younger men here present will live to see not two, but at least four, separate and sovereign commonwealths arising out of those populations which a year ago united their legislation under one president and carried their merchandise under one flag. I believe that such separation will be attended with happy results to the safety of Europe and the development of American civilization. If it could have been possible that as population and wealth increased all the vast continent of America, with her mighty sea-board and the fleets which her increasing ambition as well as her extending commerce would have formed and armed, could have remained under one form of government, in which the executive has little or no control over a populace exceedingly adventurous and excitable, why, then America would have hung over Europe like a gathering and destructive thunder cloud. No single kingdom in Europe could have been strong enough to maintain itself against a nation that had consolidated the gigantic resources of a quarter of the globe." [1]

Lord John Russell: "The struggle is on the one side for empire, and on the other for power." [2] On another occasion he said: "On the one hand, President Lincoln, in behalf of the northern portion of the *late* United States, has issued a proclamation declaratory of an intention to subject the ports of the southern portion of the *late* Union to a vigorous blockade," [3] etc.

[1] From an address before the Agricultural Society of Hertford County, September 25, 1861.

[2] Speech at Newcastle-upon-Tyne, 1861.

[3] Extract from dispatch of Lord J. Russell to Lord Cowley, British minister at Paris, dated Foreign Office, May 6, 1861. See Parliamentary Papers, 1862, Vol. LXVII, p. 531. The italics are the author's.

The Earl of Shrewsbury: "I see in America the trial of democracy and its failure. I believe that the dissolution of the Union is inevitable, and that men now before me will live to see an aristocracy established in America."[1]

Sir John Pakington, M. P.: "From President Lincoln downward there is not a man in America who will venture to tell us that he really thinks it possible that by the force of circumstances the North can hope to compel the South to again join them in constituting the United States."

Right Honorable William E. Gladstone, chancellor of the exchequer: "The Federal government can never succeed in putting down the rebellion. If it should, it would only be the preface and introduction of political difficulties far greater than the war itself."[2] On another and later occasion he said that the president of the Southern Confederacy. Mr. Jefferson Davis, "had made an army, had made a navy and, more than that, had made a nation."[3]

In a speech delivered at Dover, in the autumn of 1861, Lord Palmerston, the English premier, spoke in a taunting manner of the "fast running which signalized the battle of Bull Run."[4]

Soon after the beginning of the American civil war,

[1] Speech at Worcester, 1861.

[2] Speech at Edinburgh, January, 1862.

[3] Speech at Newcastle, October 9, 1862. See Russell's Life of Gladstone, p. 155; also Justin McCarthy's History of Our Own Times, Vol. II, p. 225.

[4] See De Gasparin's account of this matter in his "L'Amerique devant l'Europe," chapter on the conduct of England in the beginning of the American civil war.

Edward A. Freeman, the distinguished English historian, published a noted work, the title page of which reads as follows: "History of federal government from the foundation of the Achaian League to the disruption of the United States." A list of examples of federal government is given. One of them is, "The United States, A. D. 1778-1862."

These expressions from the leading public men of England leave no doubt as to the sentiments of the influential classes in that country. They hoped for the triumph of slavery, the success of the secession principle, and the division and ruin of the great American commonwealth. Such sentiments were, doubtless, inspired by jealousy and hatred of America, and by the thought that English commercial and other interests would be greatly advanced by the success of the Confederacy.

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CHAPTER III.

THE QUESTION OF CONFEDERATE INDEPENDENCE.

WHEN the southern states began to secede, the attitude of foreign governments toward them was a matter of much concern to the Federal government. At that time any acts of foreign powers looking toward a recognition of the seceding states would have increased the embarrassment of the United States government and tended to give encouragement to the rebellion.

A few days prior to the close of President Buchanan's administration, his secretary of state, Jeremiah S. Black, sent a circular letter to all United States ministers at foreign courts, requesting them to do all that was necessary and proper to prevent the independence of the seceding states from being recognized by the governments to which they were respectively accredited. Among other things Mr. Black said: "This government has not relinquished its constitutional jurisdiction within the territory of those states, nor does it desire to do so. It must be very evident that it is the right of this government to ask of all foreign powers that the latter should take no steps which may tend to encourage the revolutionary movements of the seceding states or increase the danger of disaffection in those which still remain loyal."[1]

[1] Mr. Black to U. S. ministers abroad, February 28, 1861.

When this matter was brought to the attention of Lord Russell by Mr. Dallas, the American minister at London, his lordship said that while he regretted the secession, he was not in a position to bind the British government to any particular course of action.

Immediately upon becoming secretary of state, Mr. Seward sent a second circular to the United States ministers abroad, repeating with renewed emphasis the instructions of his predecessor, and urging them to "the exercise of the greatest possible diligence and fidelity on your part to counteract and prevent the designs of those who would invoke foreign intervention to embarrass or overthrow the republic." He also suggested that it would be greatly to the advantage of foreign nations for the Union to be preserved, and that the revolt, should it break up the Union, "might tend by its influence to disturb and unsettle the existing systems of government in other parts of the world and arrest that progress of improvement and civilization which marks the era in which we live." Mr. Seward also expressed his confidence that these with other considerations would prevent foreign governments "from yielding to solicitations to intervene in any unfriendly way in the domestic concerns of our country." "You will be prompt," continued Mr. Seward, "in transmitting to this department any information you may receive on the subject of the attempts which have suggested this communication."[1]

When this dispatch was communicated to Lord Russell, he replied that the government was in no hurry to

[1] Mr. Seward to the U. S. ministers abroad, March 9, 1861.

recognize the secession as final, but that he thought the matter not ripe for decision one way or the other.[1]

His lordship also declined to discuss the subject further at that time. No words of sympathy were uttered, no good wishes for the preservation of the Union were extended, but only an answer which said in substance that England was ready to acknowledge Confederate independence whenever it was expedient to do so. Lord Russell's answer did not even assure the United States that England meant to observe that absolute neutrality which international obligation would impose.

Most answers from other countries in response to Mr. Seward's circular were quite different from that which England gave. It will be sufficient to notice three of them. Prussia "from the principle of unrelenting opposition to all revolutionary movements would be the last to recognize any *de facto* government of the disaffected states of the American Union."[2] Austria "was not inclined to recognize *de facto* governments anywhere."[3] Spain "would have nothing to do with the rebel party in the United States, in any sense."[4] Very favorable responses were received also from most other countries. Russia, Italy and Switzerland sent assurances of the warmest sympathy for the cause of the Union. Individual expressions from great men outside England were not wanting in the beginning of the struggle. On September 10, 1861, Garibaldi, the Italian patriot, ad-

[1] Mr. Dallas to Mr. Seward, April 9, 1861.
[2] Mr. Wright to Mr. Seward, May 8, 1861.
[3] Mr. Jones to Mr. Seward, April 15, 1861.
[4] Mr. Perry to Mr. Seward, June 13, 1861.

dressed a letter to the United States consul at Antwerp, in which he expressed an intention to come to America and enlist in the Federal army, if circumstances would permit him to do so.

When Charles Francis Adams became the American minister to England, he was instructed to take a still more decided stand against the recognition of the independence of the Confederate States. Said Mr. Seward in his letter of instructions to Mr. Adams: "You will in no case listen to any suggestions of compromise by this government under foreign auspices, with its discontented citizens. If, as the president does not at all apprehend, you shall unhappily find her majesty's government tolerating the application of the so-called seceding states, or wavering about it, you will not leave them to suppose for a moment that they can grant that application and remain the friends of the United States. You may even assure them promptly in that case that if they determine to recognize, they may at the same time prepare to enter into an alliance with the enemies of this republic. You alone will represent your country at London, and you will represent the whole of it there. When you are asked to divide that duty with others, diplomatic relations between the government of Great Britain and this government will be suspended, and will remain so until it shall be seen which of the two is most strongly intrenched in the confidence of their respective nations and of mankind."[1]

At another time when referring to the matter of recognizing Confederate independence, Mr. Seward said: "I have never for a moment believed that such a recog-

[1] Mr. Seward to Mr. Adams, April, 1861.

nition could take place without producing immediately a war between the United States and all of the recognizing powers. I have not supposed it possible that the British government could fail to see this, and at the same time I have sincerely believed the British government must, in its inmost heart, be as averse from such a conflict as I know this government to be."[1]

English sympathy for the South was manifested at first not only by expressions of opinion from the press and public men of that country, but also by efforts to have the independence of the Confederacy immediately recognized.

On March 4, 1861, while the ceremonies of Mr. Lincoln's inauguration were being conducted at Washington, Mr. Gregory, member of parliament for Galway, arose in his place in the House of Commons and gave notice of a motion to recognize the independence of the Confederate States of America.[2] At that date the organization of the Confederate government had been perfected only three weeks, and Mr. Gregory's knowledge of the matter had been received certainly not more than ten days before the notice of his motion was given. The notice was renewed on April 16, 1861. The matter was brought before the house several times during the session, but it was finally postponed indefinitely because the Commons thought it inexpedient to act upon it at that time.

While the matter was before the house, Mr. Gregory published a letter in the London Times in which he stated the reasons for immediate recognition of the Confed-

[1] Seward's Works, Vol. v, p. 294.

[2] See Notice Book, House of Commons, 1861.

eracy. He thought it would do much toward breaking up the slave trade which he asserted was "mainly carried on by ships sailing from northern ports, and floated by northern capital, that it would ameliorate the condition of slavery, secure peace and freedom of trade. He also regarded it as a just retaliation against the North for having enacted the Morrill tariff, and as a vindication of the right of a people to assert their independence. Mr. Gregory concluded his letter with the strong conviction that the recognition of the Confederacy by both England and France just then "would cause the war party in the North to pause before plunging their countrymen deeper into the sad struggle."[1]

It is evident from the facts already presented, and the opinions referred to, that it was neither the righteousness of the northern cause nor lack of sympathy for the South that prevented an early recognition of the Confederacy by England. It was thought to be inexpedient, and perhaps not quite safe to recognize the independence of the Confederate States, otherwise there would have been no hesitation in doing it.

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[1] Pollard's Lost Cause, pp. 126-7.

CHAPTER IV.

THE QUEEN'S NEUTRALITY PROCLAMATION.

BEFORE the lapse of sixty days after the beginning of Mr. Lincoln's administration, Fort Sumter had surrendered after a severe bombardment; seventy-five thousand troops had been called for; and a blockade of the southern ports had been proclaimed. The insurrection was constantly assuming greater proportions and a more threatening attitude. Of actual war there had been none which resulted in bloodshed, except a street fight between Federal soldiers and a Baltimore mob.[1] These events, however, tended to make the relation of foreign powers toward the two governments in America much more delicate and hazardous.

Upon assuming the duties of the presidency, Mr. Lincoln had appointed Charles Francis Adams minister to England. Mr. Adams was carefully instructed to explain to the British government the position of the new administration toward the seceded states and the relation which they sustained to the Union. He was also instructed to say that there was yet hope of a peaceable reconciliation and that, if it was desired to promote the best interests of the United States, foreign powers should be careful to commit no act of so-called neu-

trality, a move which would only extend aid and sympathy to the secession cause.

It was expected that Mr. Adams would arrive in London early in May and promptly present the views and policy of Mr. Lincoln to the British government. In his report of an official interview with Lord Russell concerning this matter, Mr. Dallas, Mr. Adams's predecessor in office at London, says: "I informed him that Mr. Adams had apprised me of his intention to be on his way hither in the steamship 'Niagara,' which left Boston on the 1st May, and that he would probably arrive in less than two weeks, by the 12th or 15th inst. His lordship acquiesced in the expediency of disregarding mere rumor and waiting the full knowledge to be brought by my successor." [1]

Notwithstanding this official assurance from Lord Russell that nothing would be done prior to the arrival of Mr. Adams, a course of action was immediately determined upon which seemed designed to give the greatest possible offense to the United States.

On May 6, in answer to a question put to him in the House of Commons concerning the proposed policy of Great Britain toward the Confederacy, his lordship said: "The attorney and solicitor-general, and the queen's advocate, and the government have come to the opinion that the Southern Confederacy of America, according to those principles which seem to be just, must be treated as a belligerent." [2] On May 13, the very day that Mr. Adams landed at Liverpool and only a few hours before he arrived in London, as if to exhibit the greatest possi-

[1] Mr. Dallas to Mr. Seward, May 2, 1861.

[2] Hansard's Parliamentary Debates, Vol. CLXII, p. 1566.

ble lack of courtesy toward him and the government which he represented, the queen's neutrality proclamation was issued. It forbade the enlistment of all British subjects on land or sea in the service of either of the contending parties and also warned her majesty's subjects not to carry officers, soldiers, dispatches, or any article of the nature of contraband of war for the use or service of either the Federals or Confederates. This constituted a complete recognition of the Confederacy as a belligerent power, that is, as entitled, so far as England was concerned, to all those exceptional rights and privileges that international law assigns to sovereign states which are at war with each other.

Perhaps a brief explanation of this matter would not be inappropriate here. All sovereign, or independent, states are governed in their relations toward each other by a collection of rules called international law. These rules or laws are only precedents, maxims and opinions which have acquired all the force of law from having been generally accepted and acted upon and from a sense that it is a matter of great and universal convenience to have some fixed standards for adjusting the disputes of sovereign nations and regulating their conduct toward each other. International law assigns to all sovereign states certain rights, privileges and obligations which are not extended to unrecognized communities or nations. In the beginning of its career an insurgent state can not possess any of the privileges which international law assigns to independent states. To recognize the belligerency of such a state is to accord to it, by the recognizing power, all of those exceptional war privileges and rights which international law would give to it, if

it were sovereign. Such recognition carries with it no rights, privileges or conditions except those necessary for conducting hostilities. Insurgents carrying on war without being recognized as belligerents may be treated as rebels, traitors and pirates. When such recognition has been extended to them, they are no longer so regarded, and when captured are treated as prisoners of war. When a foreign power recognizes the belligerency of an insurgent government it thereby places that government and the one with which the insurgents are at war upon an equality so far as war privileges and duties are concerned. A case will serve to illustrate. There was recently a civil war in Brazil. The insurgents were never recognized as belligerents and hence were not entitled to any more rights and privileges than traitors and pirates have. If the Brazilian government had conceded belligerent rights to them, captured insurgents would then have been entitled to all of the rights of prisoners of war. Indeed such recognition would have clothed the insurgents, so far as the Brazilian government was concerned, with all of the war powers, privileges and duties that belong to a sovereign and independent state, but it would have done nothing more.

The same advantages would have been secured to the insurgents, so far as the United States was concerned, if the Federal government at Washington had recognized them as belligerents. In all of their future relations with the United States they would have been placed upon an equal footing with the Brazilian government as regards all war rights, privileges and duties. No other rights would have been conferred, for a recognition of belligerency is only partial in character. No treaty with

the United States could have been concluded, neither could any ambassador have been sent to this country, or one received from it.

A hasty recognition of this character by the United States or any other foreign country would have been an act very unfriendly to the Brazilian government.

The right of a foreign state to recognize the belligerency, or even the independence, of an insurgent government, under certain conditions, can not be questioned. The ends and purposes of such recognition, however, may be quite different in character. They may be arranged under two separate heads.

First. The recognition of a mere fact as it actually exists. Where a state of war or of independence exists beyond doubt or question, it may be recognized as a fact. It is not only the privilege but also the duty of foreign states to recognize a state of war, or belligerency, after such state exists in fact. It is not easy to define a state of war, that is, to say precisely how much of force is required and how perfect the organization must be in order to distinguish such a state from that of mere insurrection. Language can not express the idea with exactness. No one will say that a state of war existed during the Dorr rebellion in Rhode Island in 1842, neither will it be pretended that such a state did not exist while the American civil war was in progress. Recognition should be accorded also to a government of whatever origin, after its independence has been fully established. An insurgent government rarely succeeds in achieving its independence at a blow. There is usually a period of struggle and uncertainty during which it is very uncertain whether the new order of

things will prevail or not. While such a state of uncertainty exists, it is neither prudent nor wise for neutral nations to acknowledge the independence of an insurgent government, since a fact should not be acknowledged in advance of its actual existence.

Second. The recognition of belligerency or even of independence by a foreign government may be accorded not simply to acknowledge an existing fact but as a means to an end. Such an act would be very unfriendly or even hostile toward the government against which the insurgent power was opposed. France acknowledged the independence of the United States as a means to achieve that result, not as an existing fact.

In view of the foregoing principles and of the circumstances under which the British neutrality proclamation was issued, it becomes very evident that it was deliberately designed to aid and encourage the insurgent cause in the United States, and, at the same time, to discourage and depress the friends of the Union. The proofs are manifest from an examination of the case.

1. Only seventy days before her majesty's neutrality proclamation was issued, Mr. Lincoln's administration had assumed the responsibilities of government at Washington. During the preceding administration all departments of government there had become greatly demoralized, and it was necessary to reorganize and purify them before any steps could be taken to offer active resistance to the insurrection. Time enough had not elapsed for the new administration to formulate its views and develop its policy toward the impending difficulties. Although these thing were understood at London and Mr. Adams was hourly expected there,

yet the British government refused to grant the brief time necessary for him to arrive and present the case of the new administration, before determining upon its course of action. The neutrality proclamation was issued with a haste which was "precipitate and unprecedented," as Mr. Adams afterward said. The friends of the Union could not but regard it, in the language of Mr. Justin McCarthy, "as an act of unseemly and even indecent haste, as evidence of an overstrained anxiety to assist and encourage the southern rebels." [1]

2. A state of war did not exist in the United States on May 13, 1861, hence there was no occasion for a neutrality proclamation. From the very nature of the case it would not be easy to say precisely when such a state of war or belligerency did begin to exist, but the United States itself, and not a foreign nation, was the proper authority to pronounce judgment concerning this matter. At the time mentioned above, belligerent rights had not been conceded to the insurgents by the Federal government. The "Savannah," a Confederate armed steamer, was captured June 3, 1861. Her crew, together with the crews of other such vessels that had been captured, were tried for piracy in a United States court, and, in at least one case, a conviction was obtained.[2] If the belligerency of the South had been recognized by the United States government at that time, such prosecutions and conviction in a Federal court would have been impossible.

3. The action taken by Great Britain did not conform to the usages of friendship in such cases. Mr. Seward

[1] The History of Our Own Times, Vol. II, p. 193.

[2] American Annual Cyclopedia for 1861, pp. 150 and 151.

has said concerning this matter: "It will be found, we think, that all nations which have desired to practice justice and friendship towards a state temporarily disturbed by insurrection have foreborne from conceding belligerent privileges to the insurgents in anticipation of their concession by the disturbed state itself. A nation which departs from this duty always practically commits itself as an ally to the insurgents." [1] It was not long after the neutrality proclamation had been issued until the insurrection assumed the character of a great civil war, and belligerent rights were then duly extended to the Confederates by all of the Federal authorities.

In the beginning it was only a personal war, an effort of the Federal government to suppress rebellion on the part of individuals. United States courts have repeatedly held that a state of civil war, that is, a war between governments, one which entitled the Confederates to belligerent recognition, did not exist until after President Lincoln's proclamation to that effect issued August 16, 1861, in pursuance of the act of congress of July 13, 1861. Belligerent recognition afterward extended by foreign powers would have been entirely in accordance with the principles of strict fairness and neutrality. [2]

4. The Confederacy was composed of states which had withdrawn from the Union in so far as they were able to do so. This had been done by an unconstitutional act known as secession—one whose validity was

[1] Mr. Seward to Mr. Adams, Jan. 12, 1867.

[2] See decisions of U. S. circuit court, state of Maryland, 6 Am. Law Reg., N. S., 732; U. S. dist. court eastern dist. of Missouri, 3 Am. Law Reg., N. S., 735; U. S. supreme court, 10 Wallace, 158.

never at any time admitted by the people of the United States. Their foundation for a government was not solid enough to command any degree of respect or confidence from foreign powers, and therefore at that time not worthy even of recognition as belligerents.

The principle of secession without restraint or opposition of any kind had been established by them when they withdrew from the Federal Union. Their own organization was not a union but a confederation with each state acting in its own "sovereign and independent capacity." [1] With a government based upon a confederation of states each of which had the privilege of seceding at pleasure, what assurance could be given that treaty obligations would be met, or that debts contracted would be paid, or that any sort of act guaranteed by the common authority would be executed in good faith? Could it have been motives friendly to the United States which induced England to extend belligerent recognition to such a government at that time?

5. It was very well understood in England that the Confederates had no navy worthy of the name, and that their facilities for building ships and manufacturing munitions of war in their own country were very limited. It was doubtless with a view of supplying the Confederates with these things that the neutrality proclamation was issued so early. This is evident from a speech made by Lord Chelmsford in the British parliament in which he said: "If, he might add, the Southern Confederacy had not been recognized by us as a belligerent power, he agreed with his noble and learned friend (Brougham) that any Englishman aiding them by

[1] See Preamble of the Constitution of the Confederate States.

fitting out a privateer against the Federal government would be guilty of piracy."[1]

6. The neutrality proclamation created the condition of belligerency on the part of the Confederates instead of acknowledging an existing fact. Mr. Adams said concerning this matter: "The British government took the initiative and decided practically that it was a struggle of two sides. And furthermore it pronounced the insurgents to be a belligerent state before they had ever shown their capacity to maintain any kind of warfare whatever except within their own harbors, and under every possible advantage. It considered them a marine power before they had ever exhibited a single privateer upon the ocean. Not a single armed vessel had yet been issued from any port under the control of these people. They were not a navigating people. They had made no prizes, so far as I knew, excepting such as they had caught by surprises. Even now I could not learn that they had fitted out anything more than a few old steamboats utterly unable to make any cruise on the ocean, and scarcely strong enough to bear a cannon of any caliber."[2]

As has already been stated any organized form of society may be recognized when it has advanced far enough to defend itself against the assaults of enemies, and has exhibited sufficient capacity to maintain binding relations with other powers. But the case is entirely different when a measure of recognition brings about a result which is due to such recognition only.

[1] Hansard's Parliamentary Debates, Vol. CLXII, p. 2084.

[2] Mr. Adams to Mr. Seward, report of statements made to Lord Russell, May 21, 1861.

Mr. Hamilton Fish, President Grant's secretary of state, has well said of this matter: "The assumed belligerency of the insurgents was a fiction—a war on paper only, not in the field—like a paper blockade, the anticipation of supposed belligerency to come, but which might never have come, if not thus anticipated and encouraged by her majesty's government."[1]

Many attempts have been made to defend the course of the British government in this matter. A singularly fair-minded writer in his treatment of other subjects says: "If there was no *bellum* going on the commerce of the world could not be expected to recognize President Lincoln's blockade of Charleston and Savannah and New Orleans. International law on the subject is quite clear. A state can not blockade its own ports. It can indeed order a closure of its own ports. But a closure of the ports would not have been so effective for the purposes of the federal government as a blockade. A closure would have been a matter of municipal law only. An offender against the ordinance of closure could be only dealt with lawfully in American waters; an offender against the decree of blockade could be pursued into the open sea."[2] Lord Stanley once said: "Her majesty's government had but two courses open to them on receiving the intelligence of the president's proclamation, namely, either that of acknowledging the blockade and proclaiming the neutrality of her majesty, or that of refusing to acknowledge the blockade, and insisting upon the right of her majesty's subjects to trade with the ports of the South where the gov-

[1] Mr. Fish to Mr. Motley, September 25, 1869.

[2] Justin McCarthy, History of Our Own Times, Vol. II, p. 193.

ernment of the United States could exercise no fiscal control at that time."

The ablest, perhaps, of English writers upon international law has said in defense of the course of his government: "In many of the southern ports there was a large amount of British property; the cargoes in the Mississippi alone at the end of May were computed to be worth a million sterling, and the greater part of these had been shipped for Liverpool. A blockade had been proclaimed extending over a coast line of some three thousand miles. Letters of marque had been publicly offered, an invitation very tempting to the adventurous and reckless men who are always to be found in every maritime nation. Both the government of the United States and the *de facto* government of the confederacy had assumed and were actually exercising on the high seas the rights of war; and the neutral who resists the enforcement of those rights does so under the penalty of capture. Branches of trade perfectly lawful before might now be treated as unlawful, and punished by seizure and confiscation. This was the state of facts existing during the first week of May so far as they were known to the English public; and on these facts the government was called upon both by the mercantile community and by some of the warmest partisans of the northern cause to define its position, to recognize or repudiate the blockade, to accept or reject the character of a neutral power, and to publish its decision as widely and as speedily as possible."[1]

The foregoing arguments may be summed up in two

[1] Montague Bernard's Neutrality of Great Britain During the American War, pp. 128-130.

propositions, viz.: that President Lincoln's proclamation of blockade constituted a prior recognition of the existence of civil war in the United States, and consequent belligerency on the part of the South, and that it was necessary for the British government to do something to protect its citizens and their interests against losses in or near the seat of war.

In answer to the latter proposition it may be said that it was not at all necessary for British subjects to be in any of the places of danger or to remain there, and if they persisted in doing so, they and their interests had as much protection as did the citizens of the United States who were similarly situated, and that they certainly did not require any more.

Was Confederate belligerency recognized by President Lincoln's proclamation declaring a blockade of the southern ports?

At the time of her majesty's neutrality proclamation, May 13, 1861, whatever of war that may have existed was not a war of governments, but only of individuals owing allegiance to the federal government. If the authority of the United States was for the time being suspended in some of the states, those states were still component parts of the union. The disturbance was legally and officially held by all of the federal authorities civil as well as military, to be strictly local in character, and as such the government at Washington had an undoubted right to close the ports within the states in insurrection by a blockade, and to forbid all intercourse between strangers and the people of the blockaded cities. The federal authorities also had the right to use the armed and naval forces of the United States to en-

force a blockade after that course had been determined upon. The form of closure best adapted to the ends in view was a blockade which was legally declared and executed as a means for subduing a local insurrection, and, until such local trouble actually developed into a state of civil war, the mere fact that certain ports were blockaded did not confer any belligerent rights whatever upon the insurgents. If a mere expedient be adopted by the federal government as a remedy for local insurrection, it does not follow as a consequence that the insurgents are invested with belligerent rights which foreign nations must immediately recognize.

The position that a nation can not blockade its own ports, but can only order a closure of them when they are held by a hostile force, can not be defended, although Mr. Justin McCarthy holds the contrary view of the matter. If the right of blockade be denied under such circumstances, the right of the government to the port is denied; but if the government have no right, then the port becomes free, and would remain so unless it be destroyed by the government that originally held and yet claimed it, because a mere decree of closure without a blockade superadded could not avail anything against a foreign nation that might choose to confer belligerent rights upon the insurgents.

As an example of this, an illustrative case may be cited. During a period of five years succeeding the year 1831, Russia blockaded her own ports on the eastern shore of the Black sea because they were in the possession of Circassian rebels. This blockade was recognized by England without conferring belligerent

rights on the Circassians. English claims for losses occasioned by this blockade were surrendered.[1]

In this instance, if the United States chose the blockade as the best form of remedy for the insurrection, and, if the rights and interests of foreigners were threatened thereby, it became the duty of the federal authorities to extend to all such aliens the fullest measure of protection, and to see that their rights were in all cases inviolably respected.

If these views of the case be correct, there can be no defense whatever for the action of the British government with regard to the neutrality proclamation. In the opinion of every unprejudiced mind, it must ever be classed with the long catalogue of unjust acts and international wrongs for which England has been noted in her relations with weaker nations or with stronger countries in distress.

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[1] See British and Foreign State Papers, Vol. XXVI, p. 2.

CHAPTER V.

ENGLISH NEGOTIATIONS WITH THE INSURGENTS.

In April, 1856, ambassadors from all of the principal European countries met at Paris and adopted as articles of maritime law the following propositions:

"1. Privateering is and remains abolished.

"2. The neutral flag covers enemy's goods with the exception of contraband of war.

"3. Neutral goods, with the exception of contraband of war, are not liable to capture under the enemy's flag.

"4. Blockades in order to be binding must be effective, that is to say, maintained by a force sufficient really to prevent access to the coast of the enemy."

By its own terms the declaration of Paris, as these principles were afterward known, was not to bind any country which did not accede to its terms. The fourth point was already a well-settled principle of international law. The third was looked upon as having almost the force of a maxim of law. The proposition that a neutral flag protects goods of an enemy save contraband of war was one over which there had been much controversy. The employment of privateers had always been regarded as a right which every nation possessed. The United States had never become a

party to this declaration, judging it not to be expedient to relinquish the right of using privateers. To do this would have placed the United States at a great disadvantage in a contest with a nation like England which possessed a greatly superior navy. Privateers are a most effective weapon against the commerce of a powerful enemy.

A large navy might easily hold the small navy of an enemy in check, destroy his commerce, and blockade his ports, all at the same time. A small navy aided by many privateers to prey on the commerce of an enemy can easily engage the attention of a very large navy.

The United States had offered to accept the declaration of Paris on condition that it be so amended as to exempt all private property from capture at sea by the public armed ships of an enemy, as well as by privateers. This proposition was refused. If it had been accepted future naval operations would have been limited strictly to the public armed ships of belligerents.[1]

Sir Henry Sumner Maine, a noted English authority on international law, after considering the amount of injury that might be done to his country in case her food supply should be cut off in time of war by the numerous and active privateers of an enemy, says: "It seems, then, that the proposal of the American government to give up privateers, on condition of exempting all private property from capture, might well be made by some very strong friend of Great Britain. If universally adopted, it would save our food, and it would save the

[1] See discussion by Hon. W. L. Marcy, U. S. secretary of state, Ex. Doc., 3d Session 24th Cong., Vol. 1, part 1, pp. 33-34.

commodities which are the price of our food, from their most formidable enemies, and would disarm the most formidable class of those enemies."[1]

Only five days after the neutrality proclamation was issued, Lord Russell addressed a communication to Lord Lyons at Washington asking the latter to take such steps as he might deem necessary in order to secure the assent of the Confederate government to the last three articles of the declaration of Paris.

On July 5, 1861, Lord Lyons addressed a communication to Robert Bunch, the British consul at Charleston, in which he said: "The course of events having invested the states assuming the title of the Confederate States of America with the character of belligerents, it has become necessary for her majesty's government to obtain from the existing government in those states securities concerning the proper treatment of neutrals. I am authorized by Lord John Russell to confide the negotiation of this matter to you and I have great satisfaction in doing so. In order to make you acquainted with the views of her majesty's government, I transmit to you a duplicate of a dispatch to me in which they are fully stated. It is essential, under present circumstances, that you should act with great caution, in order to avoid raising the question of the recognition of the new confederacy by Great Britain. On this account I think it inadvisable that you should go to Richmond or place yourself in direct communication with the central authority which is established there.

"The most convenient course will probably be for you to take advantage of the intercourse which you

[1]Maine's International Law, pp. 121-122.

naturally hold with Mr. Pickens, the governor of the state of South Carolina. I can not doubt that if you explain verbally to Mr. Pickens the views of her majesty's government, he will have no difficulty in inducing the government at Richmond to recognize, by an official act, the rights secured to neutrals by the second and third articles of the declaration of Paris, and to admit its own responsibility for the acts of privateers sailing under its letters of marque."

Consul Bunch was unable to see Governor Pickens, who was at that time in the interior of the state looking after his plantation. Mr. Bunch, however, immediately secured the services of an agent in the person of a Mr. Trescot who was very well known to Lord Lyons. Mr. Trescot went at once to Richmond and laid the matter before Jefferson Davis, president of the Confederate States. Mr. Davis expressed regret that the application had not been made in a more formal manner, but he at once called a cabinet meeting for consideration of the matter, after which it was immediately submitted to the Confederate congress. Without delay that body passed the following resolutions:

"*Resolved*, By the congress of the Confederate States of America:

"1st. That we maintain the right of privateering as it has been long established by the practice, and recognized by the law of nations.

"2d. That the neutral flag covers enemy's goods with the exception of contraband of war.

"3d. That neutral goods, with the exception of contraband of war, are not liable to capture under the enemy's flag.

"4th. Blockades in order to be binding must be effective, that is to say, maintained by a force sufficient really to prevent access to the coast of the enemy."

These resolutions were approved August 13, 1861, and returned at once by Mr. Trescot to Consul Bunch who forwarded a copy of them to Lord Lyons at Washington. His lordship was greatly pleased at Mr. Bunch's success in this undertaking, and so expressed himself in a communication enclosing a copy of the resolutions and dispatch of the consul to Lord John Russell.

When this matter was brought to the attention of Mr. Seward, he at once demanded the removal of Mr. Bunch. This was peremptorily refused by Lord Russell who replied that "Mr. Bunch was instructed" to conduct the negotiation with the Confederate States, and that "Mr. Bunch therefore, in what he has done in this matter, has acted in obedience to the instructions of his government, who accept the responsibility of his proceedings so far as they are known to the foreign department, and who can not remove him from his office for having obeyed instructions."

Mr. Bunch's *exequatur* was then formally revoked by President Lincoln. Mr. Bunch's act was a violation of a federal statute which made it an offense for any person not appointed or authorized by the president, to advise or assist in any political correspondence with a foreign government for the purpose of influencing its measures in relation to the United States.[1]

It has been affirmed by an able British writer that this was an "unofficial application made to the Confederate States" since the "channel of communication

[1] See Mr. Seward's letter to Mr. Adams, October 25, 1861.

was a private person."[1] This position is not tenable, because every communication was strictly official in character, and the mere means of conveying them could not change the character of the communications themselves. The fact that the British government assumed the responsibility for the act is of itself sufficient to establish its official character. The whole proceeding was an official invitation to the Confederacy to exercise those powers which belong only to a sovereign state, to do that which only an independent government can do, namely, to accept and become a party to an international agreement that differed in no sense from a treaty.

While this negotiation was being conducted with the Confederate government, another of similar purport was in progress with the United States government, which was not only willing but anxious to accept the declaration of Paris as a whole. At this point in the proceedings the British government refused to permit the United States to accept the Paris declaration pure and simple, except with the distinct understanding that England was not to interfere in any way whatever with privateering on the part of the Confederate States. What was equivalent to a treaty had been concluded between England and the Confederates, by which the latter were to be allowed the use of privateers.

In explanation of this matter Mr. Blaine says: "The right of privateering was not left untouched except with deep design. By securing the assent of the Confederacy to the other three articles of the Paris convention, safety was assured to British and French cargoes under the American flag, while every American cargo was at

[1] Bernard's Neutrality of Great Britain, p. 191.

risk unless protected by a foreign flag—generally the flag of England. It would have been impossible to invent a process more gainful to British commerce, and more harmful to American commerce." [1]

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[1] Twenty Years of Congress, Vol. 1, p. 579.

CHAPTER VI.

MR. SEWARD'S CIRCULAR TO THE GOVERNORS OF THE NORTHERN STATES.

DURING the first half year of the American civil war, the policy of the English government toward that of the United States appeared to be one of studied unfriendliness. The numerous semi-hostile acts which have already been narrated followed each other in rapid succession. In the summer of 1861 troops were continually pushed into Canada by the British government. When asked for an explanation Lord John Russell said that he regarded it as necessary "in the present disturbed condition of things in the United States," as he did not know but that the Americans "might do something." [1] In September of that year twenty-five thousand fresh troops were ordered to be sent to Canada for distribution along the southern frontier of that province. At the North these continued acts of unfriendliness seemed to indicate a strong desire for recognition of the Confederacy and early intervention in American affairs by the British government. To the friends of the Union this was a source of great fear and uneasiness; to the disloyal it was the cause of much hope; to the Confed-

[1] Adams to Seward, June 14, 1861.

erates it was an inspiration to greater efforts and renewed enthusiasm for their slave republic.

The popular anxiety of the loyal people concerning this matter was also shared in no small degree by the president and the various members of his cabinet. After due consideration of the matter it was decided to do something to provide against foreign interference. Accordingly a circular was addressed by Mr. Seward to each of the governors of the loyal states bordering on the ocean or the great lakes. The circular was as follows:

"DEPARTMENT OF STATE,
"WASHINGTON, Oct. 14, 1861.

"*To His Excellency, the Governor, etc.:*

"SIR—The present insurrection had not even revealed itself in arms when disloyal citizens hastened to foreign countries to invoke their intervention for the overthrow of the government and the destruction of the Federal Union. These agents are known to have made their appeals to some of the more important states without success. It is not likely, however, that they will remain content with such refusals. Indeed it is understood that they are industriously endeavoring to accomplish their disloyal purposes by degrees and by indirection. Taking advantage of the embarrassments of agriculture, manufactures and commerce in foreign countries, resulting from the insurrection they have inaugurated at home, they seek to involve our common country in controversies with states with which every public interest and every interest of mankind require that it shall remain in relations of peace, amity and friendship. I am able to state for your satisfaction that the prospect for any such disturbance is now less serious

than it has been at any previous period during the course of the insurrection. It is, nevertheless, necessary now, as it has hitherto been, to take every precaution that is possible to avoid the evils of foreign war, to be superinduced upon those of civil commotion which we are endeavoring to cure.

"One of the most obvious of such precautions is that our ports and harbors on the seas and lakes should be put in a condition of complete defense, for any nation may be said to voluntarily incur danger in tempestuous seasons when it fails to show that it has sheltered itself on every side from which the storm might possibly come.

"The measures which the executive can adopt in the emergency are such only as congress has sanctioned, and for which it has provided.

"The president is putting forth the most diligent efforts to execute those measures, and we have the great satisfaction of seeing that those efforts are seconded by the favor, aid, and support of a loyal, patriotic and self-sacrificing people, who are rapidly bringing the military and naval force of the United States into the highest state of efficiency. But congress was chiefly absorbed, during its extra session, with those measures, and did not provide as amply as could be wished for the fortification of our sea and lake coasts. In previous wars the loyal states have applied themselves, by independent and separate activity, to the support and aid of the Federal government in its arduous responsibilities. The same disposition has been manifested in a degree eminently honorable by all the loyal states during the present insurrection.

"In view of this fact, and relying upon the increase and continuance of the same disposition on the part of the loyal states, the president has directed me to invite your consideration to the subject of the improvement and perfection of the defenses of the state over which you preside, and to ask you to submit the subject to the consideration of the legislature when it shall have assembled. Such proceedings by the state would require only a temporary use of its means.

"The expenditures ought to be made the subject of conference with the Federal government. Being thus made, with the concurrence of the government, for general defense, there is every reason to believe that congress would sanction what the states should do and would provide for its reimbursement.

"Should these suggestions be accepted, the president will direct the proper agents of the Federal government to confer with you, and to superintend, direct and conduct the prosecution of the system of defense of your state. I have the honor to be, sir,

"Your obedient servant,

"W. H. SEWARD."

This circular at once caused great comment both in Canada and England. The Canadian press declared that fortifications along the northern frontier of the United States were a menace to their dominions, and would be immediately equaled by defenses which they proposed to erect just opposite. The press and authorities of England pretended to regard it as a menace and pronounced it "ill-timed," and "a foolish confession of fear." The London Post was the ministerial organ at that time. The following extracts from an editorial in

that journal probably best represent the current English view of the circular. It was entitled, "Is Mr. Seward seeking a quarrel?" Comments were made as follows: "Mr. Seward, the secretary of state, is a distinguished disciple of the American school, and during the present unhappy contest he has had abundant opportunity of writing those long-winded and pretentious state papers which appear to console the American people for the absence of liberty and the ordinary administration of the law. Three documents have recently emanated from the pen of this gentleman, in all of which English interests are deeply concerned." The documents were then enumerated, and among them was "the circular addressed to the governors of the northern states recommending the immediate construction of coast and lake defenses extending over the frontiers several thousand miles in length."

It was said of the circular that "it may fairly be supposed to be a revival of the Monroe doctrine, which, originally was a protest against the European Holy Alliance of some forty years back, has, notwithstanding the bluster of the United States government on various occasions, never received the countenance or sanction of any foreign country. In fact the doctrine was founded upon an erroneous assumption, because it ignored the authority of Great Britain, which, in right of its American provinces, has as much to do with the balance of power upon the North American continent as the United States themselves. As it is understood that the Federal government has been invited to take part in the joint expedition which England, France and

Spain are about to dispatch to Mexico, it scarcely can be believed that Mr. Seward has answered this invitation by a circular, the object of which is to place the whole coast of the republic in a state of defense against some threatened invasion.

"Does Mr. Seward imagine that the Canadians are about to ally themselves with the South, or that any foreign power is disposed to take advantage of the present condition of American affairs to threaten or insult the United States government? We doubt very much whether the conventions which make the great lakes neutral, and prohibit the employment of armed vessels in their waters, would justify either England or the United States in constructing fortresses along their coasts, which, in reality, could only be constructed as standing menaces, because they could not answer the end desired, that of protecting a frontier which, not at a hundred, but at a thousand points must always be accessible to an enemy. It suits Mr. Seward's present purpose to arouse the American mind with one of those periodical and offensive exhibitions toward England which the statesmen of the republic have on former occasions found useful. As no foreign power, in all probability, has the slightest desire to hold permanently a foot of Mexican soil or to invade the Unites States, either from the lakes or the Atlantic, Mr. Seward's circular may be regarded, if successful, as another illustration of the maxim, '*Populus vult decipi, decipiatur.*' [1] "[2]

English journals found nothing to criticise in the con-

[1] The people like to be deceived, let them be deceived.

[2] The London Morning Post, November 6, 1861.

duct of their own government as long as troops were being pushed into Canada to menace the United States. When the Federal government decided to resent this action in some degree by preparing for a foreign invasion, the British press immediately gave vent to its hatred for the northern cause and abused Mr. Seward for what it termed an act of menace and an exhibition of inconsistency.

It will be noticed that Mr. Seward's circular was issued within three days after the escape from Charleston of Messrs. Mason and Slidell, the Confederate commissioners extraordinary to England and France. The objects of their mission had been well understood at Washington for some time, and this probably had something to do with the issuing of the circular.

The Federal government at all times pursued a policy of the most determined and unyielding opposition to any foreign intervention in behalf of the insurgents, and it may safely be presumed that this firm and confident course exerted a much more powerful influence abroad than even the English government would care to admit.

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5. Victor, O. J.: History of the Southern Rebellion.

CHAPTER VII.

THE FIRST EFFORTS OF THE CONFEDERATES FOR RECOGNITION ABROAD.

FROM the very moment when secession began to be contemplated by the southern leaders, it was evident that they confidently expected foreign aid, both moral and material, in their efforts to establish their independence. A comparatively large and mutually profitable commerce had been carried on for many years between the South and the nations of western Europe. An exaggerated idea of the importance of this trade had impressed itself upon the minds of the secession leaders. They evidently believed that England would aid them in a war for independence rather than sustain the loss and inconvenience which would be caused by a destruction of the cotton trade.

While secession was under consideration, Mr. Judah P. Benjamin, United States senator from Louisiana and afterward Confederate secretary of state, addressed a letter to the British consul at New York in which very strong bids were made for English aid and sympathy. Mr. Benjamin gave it as his opinion that, under certain conditions, the southern states might be induced to

secede and resume their former allegiance to the British crown as a dependent province. [1]

South Carolina was the first state to summon a secession convention, and in the discussion which took place while that body was in session, one of the delegates said: "We have it on high authority that the representative of one of the imperial powers of Europe, in view of this prospective separation from the Union, has made propositions in advance for the establishment of such relations between it and the government about to be established in this state as will insure to that power such a supply of cotton for the future as an increasing demand for that article will require." [2]

After the secession of Georgia, Mr. Iverson, a United States senator from that state, said in his farewell speech to the senate: "You may have ships of war and we may have none. You may blockade our ports and lock up our commerce. We can live, if need be, without commerce. But when you shut out our cotton from the looms of Europe, we shall see whether other nations will not have something to say and something to do on that subject. Cotton is king, and it will find means to raise your blockade and disperse your ships." [3]

Senator John Slidell, of Louisiana, after the secession of his state, made a speech in the senate before his withdrawal, in which he said: "How long, think you, will the great powers of Europe permit you to impede their free intercourse with their best customers for their various fabrics and to stop the supplies of the great

[1] See Life of Thurlow Weed, Vol. II, pp. 313-314.
[2] Draper's Civil War in America, Vol. II, p. 501.
[3] Congressional Globe, Jan. 28, 1861.

staple which is the most important basis of their manufacturing industry, by a mere paper blockade?" [1]

One of the first things done by the Confederate congress after its organization at Montgomery in February, 1861, was to adopt resolutions that steps be immediately taken to send agents abroad for the purpose of presenting the cause of the new Confederacy to the governments of Europe. Very soon, therefore, after Jefferson Davis was installed in office, he appointed as foreign agents Messrs. William L. Yancey, of Alabama; Dudley Mann, of Virginia; P. A. Rost, of Louisiana, and T. Butler King, of Georgia. Early in March these gentlemen proceeded to their destination by way of New Orleans and Havana. They were empowered to secure the recognition of Confederate independence by European nations and to conclude treaties of amity and commerce with them. Yancey and Mann were to operate chiefly in England; Rost and King in France, although other countries were to be visited.

None of these men appear to have possessed any ability as diplomatists. Mr. Yancey was the leading spirit among them. He was a brilliant and polished speaker, ready and dextrous in controversy, sarcastic beyond expression, and extremely unscrupulous. He wrote a letter for publication in June, 1859, in which he declared that the will of the slave-holding states themselves and not the Federal government should determine whether the African slave trade should be carried on or not. He also added that the matter ought to be submitted to that kind of a tribunal only and by its de-

[1] Congressional Globe, Feb. 4, 1861.

cision alone should the southern people abide. He was one of the first men in the South to counsel secession. At a speech made early in January, 1860, he said: "But in the presidential contest a black Republican may be elected. If this dire event should happen, in my opinion, the only hope for safety for the South is a withdrawal from the Union before he shall be inaugurated—before the sword and the treasury of the Federal government shall be placed in the keeping of that party." Mr. Mann was only a dull statistician whose ability was very limited. Mr. King was a typical southern planter, the owner of a large number of slaves. Mr. Rost was a French adventurer who had drifted to Louisiana in early life, married a wealthy woman, studied law and was elected to a place on the bench of the supreme court of his state. All of these men had been noted for craft and duplicity in the management of affairs in their own limited spheres at home, but none of them possessed any of the requisites of a real diplomat. They failed to obtain any official recognition either for themselves or for their government.

Early in May, 1861, Mr. Dallas, the American minister at London, said in a communication to Mr. Seward: "He (Lord Russell) told me that the three representatives of the Southern Confederacy were here, that he had not seen them, but was not unwilling to do so unofficially."[1]

Two days later his lordship received Messrs. Yancey, Rost and Mann in an unofficial way and listened to their appeal for recognition. They entered into an exhaustive discussion of the causes which led the South

[1] Mr. Dallas to Mr. Seward, May 2, 1861.

to secede and presented the advantages for commerce which a recognition of their independence would secure to England. They called special attention to the fact that the Federal government levied a high tariff on all imports, while the constitution of the Confederate States entirely prohibited all protective duties. They said that about three-fourths of the annual imports from England were bought by the South. They also emphasized the fact that their constitution prohibited the African slave trade.

Lord Russell replied that he did not then deem it expedient to consider the question of recognition, that the Confederacy must first demonstrate its ability to maintain its position as an independent state, and that it must be shown in what manner relations were to be maintained with foreign nations.

On August 14, 1861, the same commissioners addressed a long communication to Lord Russell, in which extended reasons were given for the immediate recognition of the Confederacy by her majesty's government. To this communication his lordship returned a reply that was unsatisfactory to the Confederate agents.

When Mr. Seward learned, through Mr. Dallas's communication, of Lord Russell's proposed unofficial reception of the commissioners, he took very strong grounds against it. In a letter to Mr. Adams, who had in the meantime succeeded Mr. Dallas as minister to England, Mr. Seward said: "The president regrets that Mr. Dallas did not protest against the proposed unofficial intercourse between the British government and the missionaries of the insurgents. Intercourse of any

kind with the so-called commissioners is liable to be construed as a recognition of the authority which appointed them. Such intercourse would be none the less hurtful to us for being called unofficial, and it might be even more injurious, because we should have no means of knowing what points might be resolved by it. Moreover, unofficial intercourse is useless and meaningless, if it is not expected to ripen into official intercourse, and direct recognition. It is left doubtful here whether the proposed unofficial intercourse has as yet actually begun. Your antecedent instructions are deemed explicit enough, and it is hoped that you have not misunderstood them. You will in any event desist from all intercourse whatever, unofficial as well as official, with the British government so long as it shall continue intercourse of either kind with the domestic enemies of this country. When intercourse shall have been arrested for this cause, you will communicate with this department and receive further instructions."[1]

In response to a complimentary toast offered at a dinner of the Fishmonger's Society in London early in November, 1861, Mr. Yancey, acting as spokesman for the Confederate agents, said: "In defense of their liberties and sovereign independence, the Confederate States and people are united and resolute. They are invaded by a power numbering twenty millions, yet for eight months has the Confederate government successfully resisted, aye, repelled invasion along a military frontier of a thousand miles. Though cut off by blockade from all foreign trade, their internal resources have been adequate to the equipment and maintenance in the field of

[1] Mr. Seward to Mr. Adams, May 21, 1861.

an army of over 250,000 troops. Can all this be and yet these six millions of whites be divided? The idea is preposterous.

"They can maintain their independence intact by their own strength. As to their recognition by the powers of the world, that of course they desire. They are a people, a nation, exhibiting elements of power which few states of the world possess. But they have no reason to complain, nor do they feel aggrieved because these great powers see fit to defer their formal recognition and reception into the great family of nations. However they may differ from them as to the period when their recognition shall take place, they fully understand that such action is purely a question to be determined by those countries each for itself and with reference to its own interests and views of public policy." [1]

Strenuous efforts were made to secure recognition in other European countries, especially in France. Mr. King's operations were confined chiefly to that country. In June, 1861, he addressed a long communication to the French minister of commerce in which the commercial claims of the Confederacy to direct relations with Europe were set forth. It was in the form of a pamphlet printed in French and addressed to the minister of commerce. The real intent, however, was to prepare a document for universal circulation in Europe in order to gain friendship and sympathy for the southern cause, especially among the wealthier classes of manufacturers and merchants. Neither sound logic nor honest argument were exhibited in this address. Facts and figures were woven together in such a way as to appear like a

[1] London Globe, Nov. 12, 1861.

complete argument of justification, and it doubtless made many friends for the South among those whose information was not broad enough to enable them to see its fallacies and ingenious falsehoods. Mr. King practiced whatever of duplicity he thought would be of advantage to himself and his cause. Thus, he acted while in Europe as a commissioner from the state of Georgia, yet it has been proved conclusively from captured correspondence of his that he was a sort of general assistant to the whole band of Confederate agents abroad.

Concerning the labors of these representatives, Jefferson Davis has said: "Our efforts for the recognition of the Confederate States by the European powers, in 1861, served to make us better known abroad, to awaken a kindly feeling in our favor, and cause a respectful regard for the effort we were making to maintain the independence of the states which Great Britain had recognized, and her people knew to be our birthright."[1]

It was well, perhaps, for the peace of Europe in 1861, and certainly most fortunate for the interests of the northern states, that the sophistries of the southerners did not induce any European nation to recognize the independence of the Confederate States, and open a direct communication with them. This would have been an interference in American domestic affairs which the Federal government would not have tolerated even though it had led to a war between the United States and the recognizing power. Mr. Seward meant as much when he said that if England determined to recognize, she might as well prepare to enter into an alliance with the insurgents. Indeed, it is highly probable that one

[1] Rise and Fall of the Confederate Government, Vol. I, p. 469.

of the chief motives which induced the Confederate government to seek recognition abroad with such persistance and determination was a hope that the United States would become involved in a foreign war as a consequence. It was doubtless thought that such a result would enable them to form a foreign alliance—a measure which would have greatly improved their prospects for independence.

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CHAPTER VIII.

JAMES MURRAY MASON AND JOHN SLIDELL—THE NATURE AND MERITS OF THEIR MISSION.

THE first agents of the South had spent seven months in Europe without accomplishing anything. It became painfully evident to the Confederacy that those who were then representing its interests abroad would never be able to secure for it the much desired recognition of its independence. Although disappointed at this failure, Mr. Davis was not disheartened, but determined to try the effect of a second and much more formal mission, in which the interests of the Confederate government would be represented by men of much more ability and force of character than those who had been sent in the first instance. The new representatives were to be duly commissioned as "ambassadors" for the Confederate States. Their proposed work abroad was thought to be of vital importance to the interests of the Confederacy. After due consideration of the matter, therefore, Messrs. James Murray Mason, of Virginia, and John Slidell, of Louisiana, were selected for this employment and credentials duly furnished them by which the former was to represent the Confederate States in England, and the latter in France.

Mr. James M. Mason was a Virginian whose name was historic. His family had been distinguished in the history of his state from the earliest colonial times, and Mr. Mason himself was a man of great personal mark, possessing ability of the highest order. He had represented Virginia in the United States senate for years prior to the secession of that state. He had been chairman of the senate committee on foreign affairs and was the author of the fugitive slave law. Indeed an examination of his senatorial record shows that he never lost an opportunity to dilate upon the fugitive slave question. The failure or refusal of citizens of the free states to apprehend and return to their masters runaway slaves that were constantly escaping from Virginia was to Mr. Mason a grievance of unexampled proportions. On the first day that congress convened again after the John Brown raid, Senator Mason introduced a resolution of inquiry into the facts attending the invasion and seizure of Harper's Ferry, Virginia: "whether such invasion and seizure was made under color of any organization intended to subvert the government of any of the states of the Union; what was the character and extent of such organization; and whether any citizens of the United States not present were implicated therein or accessory thereto by contributions of money, arms, munitions or otherwise; what was the character and extent of the military equipment in the hands or under the control of said armed band and where and how and when the same was obtained and transported to the place so invaded." [1] This resolution was evidently intended to fix the responsibility for the John Brown raid

[1] Congressional Globe, Dec., 1859.

where it did not belong, viz., upon the Republican party in the northern states.

Mr. Mason was one of the first to advocate the secession of Virginia. A powerful minority in that state opposed the movement, and it was not without considerable opposition that the secessionists triumphed. The convention called to consider the question of seceding passed an ordinance withdrawing the state from the Union, provided the measure be approved by the people of Virginia at a special election called to decide the matter. Some ten days before the election Mr. Mason published a letter which was widely circulated giving his views with regard to the act of secession, which, he declared, "withdrew the state of Virginia from the Union with all the consequences resulting from the separation," and nullified "all the constitution and laws of the United States within its limits." He thought Virginia could not afford to reject the secession ordinance at the coming election, and said: "If it be asked what those shall do who can not in conscience vote to separate Virginia from the United States, the answer is simple and plain. Honor and duty alike require that they should not vote on the question, and if they retain such opinions they must leave the state." [1] This was meant to encourage intimidation of the loyal people throughout the state, and the history of the time shows that such advice was not given in vain.

Mr. John Slidell, of Louisiana, had also been known in public life previous to the civil war. A native of New York, he had in early life become a citizen of

[1] Letter to the Winchester Virginian, May 16, 1861.

Louisiana, where he had married an accomplished French Creole lady. He entered public life in 1842, being elected to the house of representatives.

Mr. Slidell represented Louisiana in the United States senate when his state seceded from the Union. His withdrawal speech was bitter in the extreme. The following is an extract from it: "We have no idea that you will even attempt to invade our soil with your armies; but we acknowledge your superiority on the sea, at present, in some degree accidental, but in the main, natural and permanent, until we shall have acquired better ports for our marine. You may, if you will it, persist in considering us bound to you during your good pleasure; you may deny the sacred and indefeasible right, we will not say of secession, but of revolution—aye, of rebellion, if you choose so to call our action—the right of every people to establish for itself that form of government which it may, even in its folly, if such you deem it, consider best calculated to secure its safety and promote its welfare. You may ignore the principles of our immortal Declaration of Independence; you may attempt to reduce us to subjection, or you may, under color of enforcing your laws or collecting your revenue, blockade our ports. This will be war and we shall meet it with different but equally efficient weapons. We will not permit the consumption or introduction of any of your manufactures; every sea will swarm with our volunteer militia of the ocean, with the striped bunting floating over their heads, for we do not mean to give up that flag without a bloody struggle; it is ours as much as yours; and although for a time

more stars may shine on your banner, our children, if not we, will rally under a constellation more numerous and more resplendent than yours. You may smile at this as an impotent boast, at least for the present, if not for the future, but, if we need ships and men for privateering, we shall be amply supplied from the same sources as now almost exclusively furnish the means for carrying on, with such unexampled vigor, the African slave trade—New York and New England. Your mercantile marine must either sail under foreign flags or rot at your wharves."

"You were," continued Mr. Slidell, "with all the wealth and resources of this great Confederacy, but a fourth or fifth rate naval power, with capacities, it is true, for large, and in a just quarrel almost indefinite expansion. What will you do when not merely emasculated by the withdrawal of fifteen states, but warred upon by them with active and inveterate hostility?" [1]

Perhaps enough has been said of these men to convey an adequate idea of the character and motives of each of them. Both were ultra secessionists, active, talented and with sufficient ability to do all that could be done for their cause in Europe.

The object of the mission of Mason and Slidell to Europe was to secure, if possible, the recognition of the independence of the Confederate government by the respective states to which they were accredited; to effect alliances or to conclude treaties of commerce or amity; to procure the intervention of France and England, if their government so desired; to neutralize and defeat

[1] Congressional Globe, Feb. 4, 1861.

any diplomatic measures of the United States in Europe; to serve the financial and military needs of the insurgent government by procuring foreign loans, securing munitions of war, granting commissions, and, in short, to aid the Confederacy by every means in their power.

The United States was most fortunate at this time in having all of her foreign affairs in the hands of men who possessed more than ordinary ability as diplomats. Mr. Seward had early anticipated the work of all Confederate agents abroad and sent to each United States minister, accredited to any country which he thought would be applied to by insurgent missionaries, a carefully prepared letter of instructions containing an outline of the arguments to be used in thwarting the efforts of the southern representatives. The instructions given to Mr. Adams were, perhaps, the most careful and extended of any.

Mr. Seward thought the agents of the Confederates would not appeal to the magnanimity or justice of Great Britain, but rather to her cupidity and caprice; that they would ask recognition as a measure of retaliation against the Morrill tariff.

In response he thought it would be well to argue that every state has a right to regard its own convenience only in framing its revenue laws; that a recognition of the Confederacy would be equivalent to a deliberate resolve on the part of her majesty's government that the American Union which had so long constituted a single prosperous nation should be permanently dissolved and forever cease to exist; that the excuse for so doing would be only a change in the American revenue laws —a change that in its very nature could be only tem-

porary and ephemeral because of public sentiment in the United States which in a brief time would probably demand a change; that as a retaliatory measure recognition would be out of all proportion to the temporary disadvantage created by the revenue law; that a magnanimous nation which desired to retaliate could find other and more friendly remedies for foreign legislation that was injurious without deliberately seeking to destroy the offending nation. Mr. Seward thought that England should not be in haste to assume that the Confederate States would offer more liberal facilities for trade than the United States would be disposed to concede; that it might be well to wait and see whether the best terms of the South would be any more desirable than those which the North could offer. Attention was also to be called to the fact that absolute free trade had always existed among the several states of the Union, which was in effect free trade throughout the largest habitable part of North America; that during the entire national period of American history, except brief intervals that did not affect the result, constantly increasing liberality in commercial relations with foreign nations had been the policy of the United States; that these advances had been made necessarily, because with an increasing liberality the Federal government had, at the same time, owing to controlling causes, continually augmented its revenues and the whole country had increased its productions; and finally that it was quite evident that no different course would be followed in the future. It was also to be noted that the Confederate States might not be able to continue for any length of time the proposed com-

mercial liberality which they proffered as an equivalent for recognition, since such liberality implied that peace must continuously exist and that trade relations would not be disturbed. If war rather than peace should mark the existence of the new government, there would be very strong temptations to levy an import duty since that would be one of their chief means of raising much needed revenue. It was further affirmed that only a limited examination of commercial statistics was sufficient to show that while the chief American exports to European countries were staples of the Confederate States, yet a very large proportion of the fabrics and products from abroad which were consumed in those states were obtained and must continue to be obtained not from Europe but from the northern states of America, and that the chief consumption of European goods imported into the United States took place in the same northern states; that the great features of that commerce could not be modified by the action of either the Confederate congress or the British parliament, since its composite character was due to the great variety of soils and climates of a continent, as well as the various institutions, customs and dispositions of the numerous communities living upon it. Mr. Seward was also of opinion that the Morrill tariff would not diminish the amount of English goods consumed in the United States, since the American people were active, energetic, industrious, inventive and not penurious, and they were engaged in developing a practically new continent of unlimited natural resources. This in his opinion caused both individual and public wealth to increase daily, and

with such increase grew the habit of liberal if not profuse expenditure—results which no revenue legislation could change other than to vary the character and not the amount and value of foreign imports.

Mr. Adams was also advised to say that Great Britain was committed to a policy of industry and peace rather than of ambition and war; that such a policy had undoubtedly brought the best results to her as a nation; and that continued success in this career required peace throughout the civilized world and especially on this continent. "Recognition by her of the so-called Confederate States," continued Mr. Seward, "would be intervention and war in this country. Permanent dismemberment of the American Union in consequence of that intervention would be perpetual war—civil war. The new Confederacy which Great Britain would have aided into existence would, like any other new state, seek to expand itself northward, westward and southward. What part of the continent or of the adjacent islands would be expected to remain in peace? President Lincoln would not for a moment believe that upon consideration of mere financial gain that government could be induced to lend its aid to a revolution designed to overthrow the institutions of this country and involving ultimately the destruction of the liberties of the American people."

Another point to be noted was that recognition of the independence of a new state was the highest possible exercise of sovereign power, because it might result in establishing the new nation among the powers of earth—a result often fraught with grave consequences

to other nations and to the peace of the world; that such a use of sovereign power should be made with greater prudence and caution in American than in European affairs, since its effects could not fail to be more serious.

That principle of international law was also invoked which regards nations as moral persons, bound so to act toward each other that not only the least injury but the most good will be done. It was held that this great principle of international law would be reduced to the merest abstraction, too refined for an enlightened nation to practice, if recognition were granted to the Confederacy.

Lastly, Mr. Adams was instructed to remind the British government that the empire over which it ruled was made up of an aggregation of divers communities covering a large portion of the earth and including one-fifth of its total population; that many of its possessions were held by ties no stronger than those which held together the Federal Union; that a time would come when the strength of those bonds would be put to a severe test by insurrection or otherwise; and to conclude by asking whether it would be wise on that occasion to set so dangerous a precedent or to pursue such a course as might invoke the future retaliation of a powerful state.

Such were the arguments as they were outlined for the use of Mr. Adams in answering the expected appeal of the Confederate agents for the recognition of their government. They afford a thorough analysis of the whole matter. Every possible argument for recognition is fairly stated, fully discussed, and a logical conclusion reached. They are amply sufficient to convince any

candid mind that not a single valid reason existed for recognizing the Confederacy, and that the mission of Mason and Slidell deserved only failure.

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CHAPTER IX.

THE DEPARTURE OF THE COMMISSIONERS FOR EUROPE.

AFTER all necessary arrangements for their departure had been made, Messrs. Mason and Slidell experienced some difficulty in getting out of the country. A strict blockade of all the Confederate ports was maintained at that time and it was necessary for these men to await a favorable opportunity to escape on some departing blockade-runner.

In the earliest days of blockade running, it was not always foreign vessels alone that engaged in the business. The Confederates possessed a few steamers that were armed for the naval service of the South and also did duty as blockade-runners, carrying cargoes in and out of the blockaded ports as often as they could conveniently do so. These vessels were commissioned as privateers, or bore Jefferson Davis's letters of marque, in order that, while on their voyages, they might capture and burn Federal merchant ships whenever they fell in with them. To this class of vessels belonged the Gordon, which was afterward renamed the Theodora.

Charleston seems to have been a favorite port for the operations of the blockade-runners. It seems to have been more difficult to guard than any of the other ports,

and it was conveniently near to the neutral ports of the West Indies. To this port, then, the commissioners accordingly came. It was announced by the Confederate press that they would take passage on the privateer Nashville, a very swift vessel which was then lying in the harbor. On the night of October 10, 1861, the Nashville passed out of the harbor in order to draw off any Federal cruiser which might be hovering around outside with the intention of giving chase to the vessel that should escape with the commissioners on board.

It was arranged for the envoys to take passage on the armed steamer Theodora. The entire party was composed of Mr. Mason and his secretary, Mr. McFarland; Mr. Slidell, his wife and four children; Mr. Slidell's secretary, Mr. George Eustis, who was also accompanied by his wife, a daughter of Mr. Corcoran, the eminent banker of Washington city.

The night of October 12 was dark and stormy. Rain was falling in torrents as the Theodora left Charleston harbor a little past midnight. In the intense darkness which prevailed she escaped the watchful cruisers of the blockading squadron and arrived at Nassau, New Providence, on the 13th. This was a British port where blockade-runners and Confederate vessels of whatever kind always received a warm welcome.

The United States government sent armed vessels in pursuit as soon as it was learned that Mason and Slidell had escaped, but the ship which conveyed the envoys was not overtaken. The secret of their movements had been well kept and several days had elapsed before news of their departure was published, even in the Charleston papers. It is probable, therefore, that the

Federal authorities did not learn of the escape in time for their steamers to have any chance whatever to overtake the Theodora.

At Nassau the envoys had fully expected to take passage on an English steamer, but were deterred from so doing when they learned that the vessel would stop at New York on her route to Liverpool. Their journey was, therefore, continued on board the Theodora to Cardenas in Cuba, whence they afterward proceeded overland to Havana, and took lodgings at the Hotel Cubana while waiting for the English steamer. The Theodora continued her voyage to Havana and steamed into that port on the 17th with Confederate colors flying. She was received with great honors at the Cuban capital. A public reception was held at the Tacon Theater in honor of her officers and crew. Captain Lockwood, of the Theodora, was presented with a "handsome Confederate flag" by the ladies of Havana, who sympathized with the southern cause. After a short stay the Confederate steamer returned to Charleston.

As soon as the envoys arrived they were waited upon by her Britannic majesty's consul at Havana, Mr. Crawford, in full dress. This gentleman introduced them to Captain-General Serrano as ministers of the Confederate States on their way to England and France,[1] but the Spanish officer would not receive them officially but only upon the footing of distinguished gentlemen and strangers. The English consul was very attentive to the envoys during their entire stay at Havana. No attempt was made to conceal their station or identity, and with

[1] In a letter to Lord Lyons dated Dec. 2, 1861, Mr. Crawford denied having done this.

a full knowledge of this, the consul's son, who was agent for the British line of steamers touching at Havana, allowed them to engage passage to Southampton.

On November 7 the envoys and their party embarked on board the British steamer Trent at Havana, with the full knowledge and consent of her captain, who afterward did what he could to conceal their identity by refusing to allow his passenger list and papers of the vessel to be seen by a boarding officer from the San Jacinto.

The Trent was a British packet which made regular trips between Vera Cruz and the Danish island of St. Thomas. It is was one of a line of steamers which carried the English mails under contract with the government. At St. Thomas direct connection was made with steamers running to Southampton. The Trent had on board probably a hundred passengers, a cargo of considerable value and a large quantity of specie. The departure of the envoys from Havana on board this vessel seemed to assure the safety of the remainder of their journey, since it was to be made under a neutral flag.

The apparently successful journey of their commissioners was a cause of congratulation among the Confederates. In discussing this matter the Richmond Examiner probably voiced the sentiment of the Confederacy when it said: "By this time our able representatives abroad, Messrs. Mason and Slidell, are pretty well on their way over the briny deep toward the shores of Europe. We commit no indiscretion in stating that they have embarked upon a vessel which will be abundantly able to protect them against most of the Yankee cruisers they may happen to meet, and the chances are

consequently a hundred to one that they will reach their destination in safety. The malice of our Yankee enemies will thus be foiled and the attempt to capture them fail of success. Great will be the mortification of the Yankees when they shall have learned this result. Our ministers did not choose to leave at any other port than one of our own or under any but the Confederate flag.

"We anticipate from Mr. Mason's presence in England a very happy effect upon our interests in that quarter. Mr. Mason is, in his points of character, a very good representative of the best qualities of the English people. He is frank, bold and straightforward, disdaining all concealments or evasions. His diplomacy will consist in telling the truth in the language of a gentleman and a statesman. As the representative of a name linked with the earlier ages of the American republic, an ex-senator of the United States for many years, and the honored servant of the Confederate government, he will wield an influence abroad such as perhaps no other man could hope to enjoy. He is the very best man we could send abroad to show foreign nations that the Southerner is a different type altogether from the Yankee—that he scorns like the latter to lie, to evade or dissemble, to fawn or play the bully and the braggart; that the despicable traits of avarice, meanness, cant and vulgarity which enter into the universal idea of a Yankee were left behind us when we seceded from the Lincoln government. We are glad to be able to contrast such a gentleman with Charles Francis Adams, the Puritan representative of freedom at the Court of St. James, and he knows little of British character who is disposed to set a slight value upon the advantages derived from

the personal character of a representative in this matter. We believe that at no distant day Mr. Mason will have the pleasure of signing a treaty of amity, on behalf of the Confederate States, with one of the oldest and greatest dynasties of Europe, and thus cement those relations of commerce upon which our future so largely depends." [1]

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CHAPTER X.

THE SEIZURE OF MASON AND SLIDELL BY CAPT. WILKES.

In August, 1861, the United States war steamer San Jacinto, a first-class screw sloop mounting fifteen guns, left St. Paul de Loando on the western coast of Africa where she had been engaged during twenty months in an active cruise for slavers. She was at that time temporarily commanded by Lieutenant D. M. Fairfax, of the United States navy, who had been instructed to proceed to Fernando Po and await at that place the arrival of Captain Charles Wilkes, an able naval officer in the service of the United States. Captain Wilkes soon arrived and took permanent command of the ship, Lieutenant Fairfax resuming his former position of executive officer.

The name of Charles Wilkes was one which was not unknown in American naval circles and in the scientific world. He had commanded an exploring expedition to the South Polar Ocean and had discovered there the dreary land which now bears his name. He was a man of great scientific acquirements. That he had been a devoted student and an original investigator in his chosen field is attested by his voluminous scientific writings. The leisure hours of his long voyages among

polar icebergs and elsewhere were chiefly spent in that way. He was regarded by his acquaintances as eccentric and independent in disposition.

After taking command of the San Jacinto, Captain Wilkes spent about a month cruising close to the shore of Africa for the purpose of ascertaining whether the Confederate privateers had taken any prizes to that coast. Having arrived at Cape Verd about the last of September, it was learned from newspapers received there that several Confederate privateers had run the blockade and taken numerous prizes in the waters of the West India islands. Captain Wilkes determined to cruise about those islands for a time and capture some of the Confederate privateers, before returning to New York. On October 10, 1861, the San Jacinto arrived at the port of St. Thomas in the West Indies. The Powhatan and the Iroquois, two United States war vessels, were already there. On the day after the arrival of the San Jacinto the British brig Spartan arrived, and her commander informed Captain Wilkes that on October 5 his vessel had been boarded by a steamer, evidently a war vessel in disguise, and that after answering all questions, he could get no satisfactory information concerning the stranger. Being shown a photograph of the Confederate privateer Sumter, he immediately recognized it as the one by which his own vessel had been boarded. All of the United States war vessels immediately left the harbor with the hope of overtaking the Sumter. About ten days afterward the San Jacinto touched at Cienfuegos on the south coast of Cuba. There it was learned from the newspapers that the Con-

federate commissioners were at Havana, having escaped in the Theodora.

Captain Wilkes immediately put to sea with the intention of intercepting the Confederate vessel on her return to Charleston. Arriving at Havana on October 28 it was learned that Messrs. Mason and Slidell were still there as guests of the Hotel Cubana, where one of Captain Wilkes's officers met Mr. Mason in the parlor. The commissioners were waiting for the English steamer Trent which would leave Havana on November 7.

Upon hearing this latter bit of information, Captain Wilkes conceived the bold design of intercepting the Trent and making prisoners of the envoys, but about ten days must necessarily elapse before this plan could be put into execution.

The Theodora had already started upon her return voyage to Charleston. A supply of coal and provisions having been secured in great haste, Captain Wilkes followed in the wake of the Theodora, but failed to overtake her. The voyage was then continued to Key West in the hope of finding there the Powhatan or some other United States war vessel to accompany him to the Bahama Channel and assist in intercepting the British mail packet. In this, however, he was disappointed, as the Powhatan had left Key West on the day before the arrival of the San Jacinto, and there was no available war steamer in the harbor. Nothing daunted, however, Captain Wilkes resolved to undertake the enterprise alone, and, having previously ascertained when the Trent would leave Havana, he readily calculated when

and where in the Bahama Channel it would be easiest to intercept the British vessel.

Any doubt of his right to board the Trent and remove the envoys from her seems never to have entered the mind of Captain Wilkes. Before arriving at Key West, he took into his confidence Lieutenant Fairfax, the executive officer of the San Jacinto, and told him of the plan to intercept the British packet, and, if the Confederate commissioners were on board her, to take them prisoners. Lieutenant Fairfax entered a vigorous protest against the proposed action and urged strongly upon Captain Wilkes the necessity of proceeding with the utmost caution in order to avoid international difficulties and possibly a war with England as a result of the affair. After reaching Key West Lieutenant Fairfax suggested that Judge Marvin, an eminent authority upon maritime law, should be consulted, but Captain Wilkes never asked advice of any one after he had once resolved to do a thing.

Accordingly on the morning of November 5, the San Jacinto steamed out of the harbor of Key West and directed her course toward Sagua la Grande on the northern coast of Cuba. Having arrived there an attempt was made to get information by telegraph from the United States consul at Havana concerning the exact time of the departure of the Trent. Failing in this the San Jacinto ran out about two hundred and fifty miles from Havana and took a position in the Old Bahama Channel where it contracts to a width of about fifteen miles. Being stationed about the middle of the channel, Captain Wilkes determined to await the passage of the Trent which he thought would not be able

to pass him on either side without being observed. With battery loaded and everything in readiness, the San Jacinto cruised here during the night of November 7, and until about noon on the 8th, when a vessel was seen to be approaching from the westward. When she had approached sufficiently near a round shot was fired across her bows from the pivot gun of the San Jacinto and the American flag was hoisted at the same moment. The approaching vessel displayed English colors, but did not check her speed or show any disposition whatever to heave to. After a lapse of some ten minutes, the English vessel still moving under a full head of steam, a shell was fired across her bows, exploding several hundred feet in front of her. This had the desired effect. The Trent, being then only a few hundred yards distant, stopped. Captain Wilkes hailed that he intended to send a boat to board her.

The following instructions had previously been issued to Lieutenant Fairfax who had charge of the party that went on board the Trent:

"U. S. STEAMER SAN JACINTO,
"AT SEA, Nov. 8, 1861

"SIR—You will have the second and third cutters of this ship fully manned and armed, and be in all respects prepared to board the steamer Trent now hove-to under our guns.

"On boarding her you will demand the papers of the steamer, her clearance from Havana, with the list of passengers and crew.

"Should Mr. Mason, Mr. Slidell, Mr. Eustis and Mr. McFarland be on board you will make them prisoners, and send them on board this ship immediately, and take possession of her as a prize.

"I do not deem it will be necessary to use force; that the prisoners will have the good sense to avoid any necessity for using it; but if they should, they must be made to understand that it is their own fault. They must be brought on board. All trunks, cases, packages and bags belonging to them you will take possession of, and send on board this ship. Any dispatches found on the persons of the prisoners, or in possession of those on board the steamer, will be taken possession of also, examined, and retained, if necessary.

"I have understood that the families of these gentlemen may be with them. If so, I beg you will offer them, in my name, a passage in this ship to the United States, and that all the attention and comforts we can command are tendered them, and will be placed in their service.

"In the event of their acceptance, should there be anything which the captain of the steamer can spare to increase the comforts in the way of necessaries or stores, of which a war vessel is deficient, you will please to procure them. The amount will he paid by the paymaster.

"Lieutenant James A. Greer will take charge of the third cutter, which accompanies you, and assist you in these duties.

"I trust that all those under your command, in executing this important and delicate duty, will conduct themselves with all the delicacy and kindness which becomes the character of our naval service.

"I am, very respectfully, your obedient servant,

"CHARLES WILKES, Captain.

"LIEUTENANT D. M. FAIRFAX,

"U. S. N., Executive Officer San Jacinto."

Captain Moir of the Trent was evidently much angered at the manner in which he had been compelled to stop, and called out through his trumpet, "What do you mean by heaving my vessel to in this manner?" Lieutenant Fairfax says that he was greatly impressed with the gravity of the situation and resolved to perform his disagreeable duty with the utmost possible courtesy. In a few minutes the boats had reached the Trent, and, directing his crew to remain alongside for orders, Lieutenant Fairfax boarded the British vessel alone and was escorted by the first officer to the quarter deck. There he was introduced to Captain Moir, who manifested great indignation at what he styled the unusual treatment he had received, although he observed the outward forms of courtesy in receiving the American lieutenant, who at once asked to see the passenger list, but this request was denied by the British captain. Lieutenant Fairfax then said that he had information of the Confederate commissioners and their secretaries having taken passage at Havana, and that he would satisfy himself as to whether Messrs. Mason and Slidell were on board before allowing the steamer to proceed. Mr. Slidell, evidently hearing his own name mentioned, stepped up and said, "I am Mr. Slidell; do you want to see me?" Mr. Mason, with whom Lieutenant Fairfax was well acquainted, came up at the same time and was asked about the two secretaries, Messrs. Eustis and McFarland. They were pointed out as they stood near. Having the four desired gentlemen before him then, Lieutenant Fairfax informed Captain Moir that he had been ordered by his commander to arrest them and send them prisoners on board the San Jacinto near by.

In the meantime the passengers, numbering almost one hundred, many of them being southerners, had crowded upon the deck, and a howl of rage and indignation burst from them when the object of the visit to the Trent was announced. The British captain, the commissioners and their secretaries were quiet and dignified, but the other passengers yelled, "Throw the d— fellow overboard." Lieutenant Fairfax then asked Captain Moir to preserve order and also reminded the passengers that the deck of the Trent was being closely watched through glasses from the San Jacinto, that a heavy battery was at that moment trained upon them and that to carry out their threat might result in dreadful consequences. This, with the example set by the captain, restored partial order. During the uproar caused by the first announcement of Lieutenant Fairfax's object in visiting the Trent, the guard which had been left below, fearing violence to him, came hurrying to the upper deck. At sight of the marines Captain Moir remonstrated and Lieutenant Fairfax ordered them to return to their boat with an assurance to the British captain that they had come up contrary to instructions. The purpose of the visit was then discussed more generally, Captain Moir saying very little. Among those on board who were noisiest and most abusive was Commander Richard Williams, an officer on the retired list of the royal navy in charge of her majesty's mails. He denounced the whole proceeding in the bitterest and most offensive language possible, repeatedly stating that he officially represented the British government, that he meant to report the matter at once, that England would break the blockade of the southern ports in twenty days

and that the northerners might as well give up now. His formal "protest" on the deck of the Trent was as follows: "In this ship I am the representative of her majesty's government, and I call upon the officers of the ship and passengers generally to mark my words, when, in the name of the British government, and in distinct language, I denounce this as an illegal act, an act in violation of international law; an act indeed of wanton piracy, which, had we the means of defense, you would not dare to attempt." Not the slightest notice was taken of Commander Williams or his insults either by Lieutenant Fairfax or any of his men, as they could have official relations only with Captain Moir. Mrs. Slidell inquired who was in command of the San Jacinto, and upon being informed that it was Captain Wilkes she expressed surprise at his playing into Confederate hands by doing a thing which would certainly arouse England, thus accomplishing what the southern people most desired. Mr. Mason suggested to her that the matter be not discussed at that time. Both Mrs. Slidell and Mrs. Eustis declined to accept Captain Wilkes's offer of his cabin, and declared their intention not to leave the Trent.

After trying in vain to induce the commissioners and their secretaries to go with him peaceably, Lieutenant Fairfax called to one of the officers in his boat below and directed him to return to Captain Wilkes with the information that the gentlemen whom they desired to arrest were all on board, but that force would be necessary to execute the order to remove them from the packet. Lieutenant James A. Greer was at once sent with another boat in which were a number of armed

marines. A comfortable boat was also sent for the commissioners and their secretaries; a second for their luggage, and still a third for provisions which had been purchased from the steward of the Trent for the benefit of the prisoners.

Meanwhile Messrs. Mason and Slidell had repaired to their respective cabins and arranged their luggage, but still insisted that force would be necessary to compel them to go. Lieutenant Greer's armed marines were then brought up and formed just outside the main deck cabin. Calling to his aid several officers who had been previously instructed concerning their duties, Lieutenant Fairfax said to them, "Gentlemen, lay your hands upon Mr. Mason," which they accordingly did, seizing him by the shoulders and the coat-collar. Mr. Mason then said that he yielded to force under protest and would go, after which he was escorted to the boat in waiting.

Lieutenant Fairfax then returned for Mr. Slidell who insisted that considerable force would be necessary to remove him. During all of this time excitement was rapidly increasing among the passengers. They crowded around the entrance to the cabin making a great deal of noise and all kinds of disagreeable and contemptuous remarks, such as: "Did you ever hear of such an outrage?" "These Yankees will have to pay well for this." "This is the best thing in the world for the South; England will open the blockade." "We will have a good chance at them now." "Did you ever hear of such a piratical act?" "They would not have dared to have done it, if an English man-of-war had been in sight." One person, supposed to be a passenger, be-

came so violent that the captain ordered him to be locked up. Commander Williams, it is said, advised Captain Moir to arm the crew and passengers. The confusion and loud talking increased. Lieutenant Greer, in charge of the armed marines stationed just outside of the main deck cabin, feared that there would be trouble, as he heard some one near Lieutenant Fairfax call out, "Shoot him." An order was given for the marines to advance into the cabin at quickstep. As they moved forward with fixed bayonets the passengers fell back. A passage-way was cleared and the armed guard ordered back. Mr. Slidell at the same moment jumped out of a window of a state-room into the cabin. He was then seized by two of the officers and enough of force applied to convey him into the boat with Mr. Mason.

Many accounts of this affair state that while her father was being taken out of the cabin, Miss Slidell, a young lady of perhaps seventeen, screamed and slapped Lieutenant Fairfax in the face. The truth of the matter seems to be that while the lieutenant was at the door of Mr. Slidell's state-room, the latter's daughter was protesting against having her father taken from her when a slight roll of the ship caused Miss Slidell to lose her balance for a moment and involuntarily to touch Lieutenant Fairfax's shoulder. The two secretaries entered the boat quietly under protest. The entire party was then transferred to the San Jacinto. Their luggage having been put into another boat was also transferred.

It will be noticed from the instructions given by Captain Wilkes to Lieutenant Fairfax that the latter's or-

ders were to take possession of the Trent as a prize after having captured the commissioners. When the transfer had been made, Lieutenant Fairfax returned to the San Jacinto and reported that he had not made a prize of the Trent in accordance with his original orders, assigning at the same time saisfactory reasons for not having done so. The first was that as the San Jacinto was expecting to move northward at once and co-operate with Admiral Du Pont in his naval attack on Port Royal, their force and efficiency would be greatly weakened, if a large prize crew of officers and men should be put on board the Trent in order to carry her into port. The second reason was that great inconvenience and loss would be occasioned to the large number of innocent passengers aboard the Trent. After consideration of these suggestions Captain Wilkes approved them and consented that the Trent be allowed to go. Lieutenant Fairfax then returned to the Trent and informed Captain Moir that he would be detained no longer and that he might continue his voyage. The British vessel then continued on her course, having been detained about two hours by the San Jacinto.

Lieutenant Fairfax says that he resolved in the very beginning to perform his duty as courteously as possible so as not to irritate the British captain, his passengers, or the envoys lest they might decide to throw the Trent upon his hands, which would necessitate his taking her as a prize. While the Trent was stationary, with steam shut off, she drifted out of channel and into sight of shoal water. Captain Moir noticed this and said to Lieutenant Fairfax, "If you do not hurry and get out of my vessel, I will not be responsible for her safety." The

lieutenant at once hailed the San Jacinto and requested that she be kept more nearly in the middle of the channel. After she had taken a new position Lieutenant Fairfax said to Captain Moir: "Now you can move up nearer to the San Jacinto." This he accordingly did. Lieutenant Fairfax cites this to show how careful he was to keep the British captain in an agreeable frame of mind so that the chances of his throwing the Trent upon the hands of the Americans would be less.

Lieutenant Fairfax gives an account of a conversation which he had with Captain Moir at St. Thomas after the close of the war. The latter "reverted to an interview he had with the British admiralty on his return to England whither he had been from St. Thomas. The admiralty were very much displeased with him for not having thrown the Trent on our hands, to which he replied (so he said to me) that it had never occurred to him; that in fact, the officer who boarded the Trent was so civil and had so closely occupied him in conversation about foreign matters, that he had failed to see what afterward was very plain. He recounted the excitement on 'change over the affair, and expressed the conviction that all England would have demanded speedy redress had I taken the Trent. He had seen the reports in print in our newspapers, and had read my order to take possession and wondered that I had not." [1]

After parting company with the Trent the San Jacinto proceeded to the Florida coast and thence northward, but was too late to take part in the attack on Port Royal. On November 15 Fortress Monroe was reached. Captain Wilkes came ashore and reported the seizure.

[1] Battles and Leaders of the Civil War, Vol. II, p. 142.

His report of the movements of the ship and the facts in regard to the capture of the commissioners was forwarded to Washington by Lieutenant Taylor, who was a passenger from the coast of Africa to the national capital. In an extended talk with Captain Wilkes, General Wool, who was then in command of Fortress Monroe, expressed the opinion that the right thing had been done in capturing the commissioners, and that, if a wrong had been committed, no greater penalty than "cashiering" could be inflicted. On November 16, after receiving Captain Wilkes's report, the following telegram was sent to the commandant of the New York navy yard by the secretary of the navy: "You will send the San Jacinto immediately to Boston, and direct Captain Wilkes to deliver the prisoners at Fort Warren. Let their baggage be strictly guarded and delivered to the colonel at Fort Warren for examination." On the same day the following telegram, which had been united in by the secretary of state and the secretary of the navy, was sent to Robert Murray, United States marshal at New York: "You will proceed in the San Jacinto to Fort Warren, Boston, with Messrs. Mason and Slidell and suite. No persons from shore are to be permitted on board the vessel prior to her departure from New York."

Severe weather and a lack of coal compelled Captain Wilkes to stop at Newport, Rhode Island, on November 21. The prisoners expressed a wish to be allowed "to remain in custody at Newport on account of the comparative mildness of the climate," which they thought would benefit the delicate health of one of their number. They offered to pledge themselves "not

to make any attempt to escape, nor to communicate with any person while there unless permitted to do so." The matter having been referred by telegraph to the secretary of the navy, he immediately sent the following reply: "The government has prepared no place for confinement of the prisoners at Newport. The department can not change the destination of the prisoners." Two days before the arrival of the San Jacinto at Boston, Captain Hudson, who was in command of the Boston navy yard, received the following telegram from Gideon Welles, secretary of the navy: "Direct Captain Wilkes immediately upon his arrival to have the effects of the rebel prisoners on board the San Jacinto thoroughly examined, and whatever papers may be found to send them by special messenger to the department." Finally the San Jacinto steamed into Boston harbor on November 24, after having encountered both a heavy fog and a very severe storm off the coast of New England.

During the entire voyage of sixteen days the prisoners had been treated with great courtesy. They messed with Captain Wilkes at his table, and occupied his cabin. Lieutenant Fairfax frequently talked with Mr. Eustis while on the way. The latter expressed the opinion that Great Britain would demand the release of the prisoners and that the United States would have to accede. Before leaving the ship the prisoners addressed a courteous note to Captain Wilkes thanking him for the kindness with which they had been treated while on board his vessel. When first brought on board, however, they prepared and signed a formal protest against the manner in which they had been seized. They requested that it be forwarded to the govern-

ment of the United States. This was done by Captain Wilkes when his own report was sent. The prisoners knew very well that it would have no effect whatever on the government of the United States. It was a statement intended for Confederate sympathizers in Europe and elsewhere. The commissioners doubtless thought that their protest of injured innocence would secure much sympathy for them abroad.

Colonel Dimmick, in command of Fort Warren, took charge of the prisoners and their baggage, which consisted of about half a dozen trunks and as many valises, several cases containing an assortment of fine wines and liquors and a good supply of cigars. A careful examination was made but no dispatches were found among their effects. None had been asked for and no particular effort had been made to secure them when the Trent was boarded. Whatever of dispatches that were in possession of the commissioners were doubtless secretly given to some of the other passengers of the Trent—probably the ladies—and by them conveyed to England from St. Thomas in the British steamer La Plata.[1]

On November 16, the day after his departure from Fortress Monroe, Captain Wilkes prepared his final report of the capture. A number of passages in this report are of great interest, giving, as they do, his reasons for making the capture, and his arguments by which he justifies the act. He says: "I determined to intercept them, and carefully examined all the authorities on

[1] It seems that a Mr. Hanckel, of Charleston, took charge of them and delivered them to the Confederate agents, Yancey, Rost and Mann, in London. See U. S. and Confederate Naval Records, Ser. 1, Vol. 1, p. 155.

international law to which I had access, viz.: Kent, Wheaton and Vattel, besides various decisions of Sir William Scott, and other judges of the admiralty court of Great Britain, which bore upon the rights of neutrals and their responsibilities."

"The question arose in my mind whether I had the right to capture the persons of these commissioners—whether they were amenable to capture. There was no doubt I had the right to capture vessels with written dispatches; they are expressly referred to in all authorities, subjecting the vessel to seizure and condemnation if the captain of the vessel had the knowledge of their being on board, but these gentlemen were not dispatches in the literal sense, and did not seem to come under that designation, and nowhere could I find a case in point."

"That they were commissioners I had ample proof from their own avowal, and bent on mischievous and traitorous errands against our country, to overthrow its institutions, and enter into treaties and alliances with foreign states, expressly forbidden by the constitution."

"I then considered them as the embodiment of dispatches, and as they had openly declared themselves as charged with all authority from the Confederate government to form treaties and alliances tending to the establishment of their independence, I became satisfied that their mission was adverse and criminal to the Union, and it therefore became my duty to arrest their progress and capture them if they had no passports from the Federal government, as provided for under the law of nations, viz.: 'That foreign ministers of a belligerent

on board of neutral ships are required to possess papers from the other belligerent to permit them to pass free.'

"They went into the steamer with the knowledge and by the consent of the captain, who endeavored afterward to conceal them by refusing to exhibit his passenger list and the papers of the vessel. There can be no doubt he knew they were carrying highly important dispatches, and were endowed with instructions inimical to the United States. This rendered his vessel (a neutral) a very good prize, and I determined to take possession of her, and, as I mentioned in my report, send her to Key West for adjudication, when, I am well satisfied, she would have been condemned for carrying these persons, and for resisting to be searched. The cargo was also liable, as all the shippers were knowing to the embarkation of these live dispatches, and their traitorous motives and actions to the Union of the United States."

"I forbore to seize her, however, in consequence of my being so reduced in officers and crew, and the derangement it would cause innocent persons, there being a large number of passengers who would have been put to great loss and inconvenience, as well as disappointment, from the interruption it would have caused them in not being able to join the steamer from St. Thomas to Europe. I therefore concluded to sacrifice the interests of my officers and crew in the prize, and suffered the steamer to proceed, after the necessary detention to effect the transfer of these commissioners, considering I had obtained the important end I had in view, and which affected the interests of our country and interrupted the action of that of the Confederates."

A perusal of these paragraphs from Captain Wilkes's report is sufficient to show that he acted in accordance with what he believed to be his duty, and if subsequent events proved him to be in the wrong, it was only an error of judgment.

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CHAPTER XI.

THE EFFECT IN AMERICA.

THE fact of Messrs. Mason and Slidell's appointment, the nature of their mission to Europe, and their desire to escape through the blockade and proceed to their respective destinations, was well understood throughout the northern states before the commissioners left Charleston. All of these matters had been published in the New York and other northern newspapers before the close of October, 1861. To this was added in due time an account of the running of the blockade at Charleston by the Theodora with the envoys on board. Knowing the character of these men, and the disposition of the governments of France, and especially of England, toward the United States, the loyal people of the North felt somewhat solicitous concerning the outcome of this traitorous mission.

When Captain Wilkes came ashore at Fortress Monroe on November 15, and announced that he had captured the envoys, and had them prisoners on board his vessel, and when the telegraph flashed this news throughout the northern states, the people were prepared to receive it with the greatest demonstrations of delight. No event of the war up to that time caused so

much genuine rejoicing in all of the states except those composing the Confederacy. The people of the North had been so completely engrossed by the peculiar spirit of war time that they were not prepared to consider correctly the real issue which was certain to be involved in this act of a popular sea captain. The masses did not stop at first to consider its policy, neither did they question its legality. It was to them only the capture of two dangerous rebels. To the masses it was a matter which concerned only themselves and the public enemy in the South. In the beginning it never occurred to any one that the envoys had been taken from the protection of the flag of a great maritime nation beyond the sea—a power that was disposed to be unfriendly to the United States, and that this semi-hostile nation might deny the right to make such a seizure and offer only the alternative of war, in case of a refusal to liberate the prisoners.

War times are productive of heroes and hero-worship. The name of Captain Charles Wilkes was at once added to the list of heroes which the war had thus far developed. Praises of the gallant captain and his wonderful exploit were sounded throughout the length and breadth of the loyal states. Newspapers and public officials could not say too much in support of his act. The bookwrights at once incorporated into their war histories not only the story of the hero and his valor in seizing the ambassadors, but also an account of his intimate acquaintance with international law from which he had deduced an unanswerable argument to justify his action.

On November 26, two days after the arrival of Captain Wilkes in Boston harbor, a banquet was given to

him and his officers at the Revere House in that city. Hon. J. Edmunds Wiley presided. The conservative Bostonians became quite enthusiastic over the recent capture of the commissioners. The presiding officer highly applauded the act. He was followed by Hon. John A. Andrew, governor of Massachusetts, who thought the act exhibited "not only wise judgment but also manly and heroic success." He declared that it was "one of the most illustrious services that had made the war memorable," and rejoiced in the idea that the gallant captain then present had "fired a shot across the bows of the ship that bore the English lion's head." Chief Justice Bigelow delivered a speech containing similar sentiments. Captain Wilkes and Lieutenant Fairfax also made speeches, in which the capture was briefly described. In the course of his speech Captain Wilkes said: "Before deciding on the course I adopted, I examined the authorities—Kent, Wheaton, and the rest—and satisfied myself that these 'commissioners' or 'ministers' as they styled themselves, had no rights which attach to such functionaries when properly appointed, and finding that I had a right to take written dispatches, I took it for granted that I had a right to take these 'commissioners' as the embodiments of dispatches. I therefore took it upon myself to say to those gentlemen that they must produce their passports from the general government, and as they could not do that, I arrested them." At New York an ovation was given to Captain Wilkes, and the hospitality of that city was offered to him. At a stated meeting of the New York Historical Society at which he was present, on December 3, he was elected by acclamation an honorary

member of that body. Special honors were also tendered to him at Washington about the middle of the month.

Everybody was electrified by the good news. Every member of the cabinet was elated by the capture except Mr. Blair.[1] When the message which announced the capture was brought into the office of Simon Cameron, secretary of war, Governor Andrew of Massachusetts and a number of other distinguished men were present. Cheer after cheer was given with a will by the delighted assemblage, led by the secretary and heartily seconded by Governor Andrew.

In the beginning Mr. Seward, secretary of state, approved of the proceeding of Captain Wilkes and rejoiced over it. At first "no man was more elated or jubilant over the capture of the emissaries than Mr. Seward, who, for a time, made no attempt to conceal his gratification and approval of the act of Wilkes."[2]

Hon. Gideon Welles, secretary of the navy, was much pleased, and sent the following congratulatory letter to Captain Wilkes:

"NAVY DEPARTMENT, Nov. 30, 1861.

Captain Charles Wilkes, Commanding U. S. S. San Jacinto, Boston:

DEAR SIR—I congratulate you on your safe arrival, and especially do I congratulate you on the great public service you have rendered in the capture of the rebel commissioners, Messrs. Mason and Slidell, who have been conspicuous in the conspiracy to dissolve the

[1] See Welles's Lincoln and Seward, p. 187.

[2] Welles's Lincoln and Seward, p. 185.

Union, and it is well known that, when seized by you, they were on a mission hostile to the government and the country.

"Your conduct in seizing these public enemies was marked by intelligence, ability, decision and firmness, and has the emphatic approval of this department. It is not necessary that I should in this communication—which is intended to be one of congratulation to yourself, officers and crew—express an opinion on the course pursued in omitting to capture the vessel which had these public enemies on board, further than to say that the forbearance exercised in this instance must not be permitted to constitute a precedent hereafter for infractions of neutral obligations.

"I am, respectfully, your obedient servant,

"GIDEON WELLES."

In his annual naval report, issued a few days after the congratulatory letter was written, Secretary Welles said: "Captain Wilkes, in command of the San Jacinto, while searching in the West Indies for the Sumter, received information that James M. Mason and John Slidell, disloyal citizens and leading conspirators, were, with their suite, to embark from Havana in the English steamer Trent, on their way to Europe, to promote the cause of the insurgents. Cruising in the Bahama Channel he intercepted the Trent on the 8th of November, and took from her these dangerous men, whom he brought to the United States. His vessel having been ordered to refit for service at Charleston, the prisoners were retained on board and conveyed to Fort Warren, where they were committed to the custody of Colonel Dimmick, in command of the fortress.

"The prompt and decisive action of Captain Wilkes on this occasion merited and received the emphatic approval of this department, and if a too generous forbearance was exhibited by him in not capturing the vessel which had these rebel emissaries on board, it may, in view of the special circumstances and of its patriotic motives, be excused, but it must by no means be permitted to constitute a precedent hereafter for the treatment of any case of similar infraction of neutral obligations by foreign vessels engaged in commerce or the carrying trade."

On Monday, December 2, congress assembled and before the close of the first day's session, Mr. Lovejoy, of Illinois, by unanimous consent, offered a joint resolution which read as follows:

Resolved, That the thanks of congress are due, and are hereby tendered, to Captain Wilkes, of the United States navy, for his brave, adroit and patriotic conduct in the arrest and detention of the traitors, James M. Mason and John Slidell."

Mr. Edgerton, of Ohio, moved the following resolution as a substitute, viz.:

"That the president of the United States be requested to present Captain Charles Wilkes a gold medal, with suitable emblems and devices, in testimony of the high sense entertained by congress of his good conduct in promptly arresting the rebel ambassadors, James M. Mason and John Slidell."

This substitute was not agreed to, however, but the joint resolution offered by Mr. Lovejoy was promptly passed.

On the same day Mr. Odell, of Indiana, offered the following preamble and resolution:

"WHEREAS, Colonel Michael Corcoran, who was taken prisoner on the battlefield of Manassas, has, after suffering other indignities, been confined by the rebel authorities in the cell of a convicted felon: therefore,

"*Resolved*, That the president of the United States be requested to similarly confine James M. Mason, late of Virginia, now in custody at Fort Warren, until Colonel Corcoran shall be treated as all the prisoners of war, taken by the United States on the battlefield, have been treated."

This preamble and resolution was adopted without dissent.

Just before adjournment on the same day, Hon. Moses F. Odell, of New York, introduced the following preamble and resolution:

"WHEREAS, Colonel Alfred M. Wood, of the fourteenth regiment of New York state militia, who was wounded and taken prisoner at the battle of Bull Run, has now, by rebel authorities, been ordered to confinement in a felon's prison, and, by the same order, is to be treated as a prisoner convicted of infamous crimes; therefore,

"*Resolved*, That the president of the United States be respectfully requested to order John Slidell to the same character of prison, and to the same treatment, until Colonel Wood shall be treated as the United States have treated all prisoners taken in battle."

This was read, considered and agreed to.[1]

[1] Congressional Globe, Dec. 2, 1861.

When the news of the capture was first received, the press throughout the North heartily indorsed the act and indulged in the most extravagant expressions of joy. One metropolitan newspaper said: "There is no drawback to our jubilation. The universal Yankee nation is getting decidedly awake. As for Captain Wilkes and his command, let the handsome thing be done. Consecrate another 4th of July to him, load him down with services of plate and swords of the cunningest and costliest art. Let us encourage the happy inspiration that achieved such a victory." Another prominent newspaper said: "Two of the magnates of the Southern Confederacy, two, perhaps, who have been as potent for mischief as any that could have been selected (out of South Carolina) from the long list of political ingrates, have 'come to grief' in their persistent attempts to destroy the noble government to which they owe all the honorable distinction they have hitherto enjoyed."

Amateur poets all over the country found Captain Wilkes's exploit a fitting theme to be celebrated in the best verse which they were able to produce. The columns of the New York Evening Post, the Brooklyn Times, the Indianapolis Journal and other leading newspapers were graced by orginal contributions of this kind.

In the great storm of applause that passed over the country immediately after the capture had been announced, no dissenting voices could be heard. The more conservative opinions must needs wait for an opportunity to be heard. While most of the cabinet, the house of representatives, the people and the press were bestowing praises without stint upon Captain

Wilkes and his heroic deed there was one grave, thoughtful man who was able to look beyond the mere fact of the capture of two dangerous traitors and conspirators of the South, and see the real issues which he felt certain would be involved in the affair. In that man at that time was vested a greater executive power than has been wielded by any English-speaking person during the last two hundred years. In his opinion it was not a matter for rejoicing.

In the evening of the day when the news of the capture was first received in Washington, Dr. Benson J. Lossing, the eminent historian, and Hon. Elisha Whittlesy, comptroller of the treasury, called at the White House and were accorded a brief interview with President Lincoln. To them he said: "I fear the traitors will prove to be white elephants. We must stick to American principles concerning the rights of neutrals. We fought Great Britain for insisting, by theory and practice, on the right to do precisely what Captain Wilkes has done. If Great Britain shall now protest against the act, and demand their release, we must give them up, apologize for the act as a violation of our doctrines, and thus forever bind her over to keep the peace in relation to neutrals, and so acknowledge that she has been wrong for sixty years."

We are also told by a member of Mr. Lincoln s cabinet that while the rejoicing was well-nigh universal, the president was troubled with doubt and anxiety concerning the final result of the seizure. He could not see the matter in the same way as did his secretary of state. Having taken counsel with Senator Sumner concern-

ing the matter, Mr. Lincoln's doubts and apprehensions were much increased.

It is a fact worthy of notice that no mention whatever is made of the capture in Mr. Lincoln's annual message to congress, December 3, 1861. He probably thought it inexpedient under the circumstances either to discuss the matter or even to allude to it. He may have been considering in his own mind what the final outcome of the matter would be when he penned the following significant passage which appears in his message: "Since, however, it is apparent that here, as in every other state, foreign dangers necessarily attend domestic difficulties, I recommend that adequate and ample measures be adopted for maintaining the public defenses on every side, while under this general recommendation provision for defending our coast line readily occurs to the mind, and also in the same connection ask the attention of congress to our great lakes and rivers. It is believed that some fortifications and depots of arms and munitions, with harbor navigation improvements at well selected points upon these, would be of great importance to the nation's defense and preservation, and ask attention to the views of the secretary of war expressed in his report upon the same general subject."

Mr. Blair, Lincoln's postmaster-general, seems from the first to have held more radical views concerning the matter than did the president or any one else. He did not publicly discuss the case, but to the other members of the cabinet he denounced Captain Wilkes's act as an outrage on the British flag, which, he said, the English ministry would seize upon to make war upon the United States. Not being an admirer of Captain Wilkes, Mr.

Blair said that he should be ordered to take the Iroquois with Messrs. Mason and Slidell on board, proceed to England and deliver them over to the British government. This, he thought, would be a manifestation of the greatest contempt and indifference for the Confederate ambassadors, and a severe rebuke to whatever of alleged intrigues that may have existed between the insurgents in the United States and the English cabinet.

After the first wave of universal rejoicing had passed over the country, the legality of the act was publicly discussed at length by the press and the ablest jurists. The Baltimore American said that it was "a violation of the laws of neutrality strictly considered." Afterward the same journal said that it was a matter which was "beyond the reach of mere diplomacy," since "in numerous ways the government and people have fully indorsed the act of Captain Wilkes, and the verdict will never be reversed, although all Europe, with England at its head, demand it. One of the principal newspapers of Washington[1] said: "The British government should direct Lord Lyons to return the thanks of her majesty to the United States government for its forbearance in not having seized the steamer Trent, brought her into port, and confiscated ship and cargo, for an open and flagrant breach of international law. The queen's proclamation of May last acknowledged the rebel states to be belligerents—enemies of the United States—and by their own principles of international law, British ships were thereafter to abstain from carrying dispatches, or doing any act that favored the Confederates, under penalty of seizure and confiscation. Slidell and Mason should be

[1] Evening Star, Dec. 9, 1861.

held in rigid custody until they can be tried and punished for their crimes against the government of the United States. Their sham character of ambassadors affords no protection. It is a lawful right of belligerents to seize an ambassador, as soon as any other person, if he can be caught at sea." The National Intelligencer said: "The proceeding of Captain Wilkes is fully justified by the rules of international law as those rules have been expounded by the most illustrious British jurists and compiled by the most approved writers on the law of nations." This position was maintained by citing numerous British authorities. Such a position had been taken by the British government in the declaration of war against Russia in 1854, when the following language was used: "It is impossible for her majesty to forego her right of seizing articles contraband of war, and of preventing neutrals from bearing enemies' dispatches." Hon. Lewis Cass expressed the opinion that the seizure was justifiable from the standpoint of international law.

Hon. Edward Everett expressed a like opinion in an address before the Middlesex Mechanics' Association at Lowell. He said that the commissioners imprisoned in Fort Warren would no doubt be kept there until the restoration of peace, which we all so much desire." It was said by another equally good authority that "the act of Captain Wilkes was in strict accordance with the principles of international law recognized in England, and in strict conformity with English practice."[1] Numerous other opinions were volunteered, among them one from the English consul at New Orleans, who

[1] Geo. Sumner in Boston Transcript, Nov. 18, 1861.

thought the act entirely in accord with the principles of international law as based upon English precedents, and from them furnished material for an editorial in one of the city newspapers. George Ticknor Curtis, the well-known constitutional lawyer of Boston, said the Trent should have been brought into port for adjudication in a prize court.

On November 21, at a diplomatic dinner in Washington, there was a full and free discussion of the act of Captain Wilkes. The opinion prevailed with almost perfect unanimity that the seizure was wholly unauthorized by the principles of international law, and some of the ministers took even more advanced grounds than these and asserted that the act, if not disavowed by the United States government, would be a justifiable cause of war.

A special correspondent of one of the principal western newspapers a few days later took a view of the case different from the most common ones at that time. Among other things he said: "But there is another view of the case, and a highly important one, which ought to be well considered. By justifying the act of Captain Wilkes, the United States justifies also that very conduct on the part of England toward this country, our resistance to which caused the war of 1812, namely, the right of search; and we abandon the vantage on this great question on which we have heretofore stood. The question then is simply and absolutely this: Is it expedient for the sake of a mere temporary advantage, and a slight one at that, for us to abandon the position on the question of the right of search which

we have heretofore held, and assume England's position on that question? It is by no means certain that the arrest of these gentlemen may not be a positive advantage to the South, as the developments of the next two weeks may show. Besides, and over and above all other considerations, it is always better for nations to maintain such a strong and impregnable position as ours was on the right of search than to abandon it for such a slight advantage as this will be. If we give up the ground we occupy on that question, as we shall have to do if we justify the arrest of Mason and Slidell, we will have to submit tamely to the indignities of having all of our merchant vessels searched by every English cruiser that crosses their path, and of having our seamen impressed again into the British naval service." [1]

It was also asserted in New York about this time that the queen's neutrality proclamation, which had forbidden her subjects to carry dispatches for either of the belligerents, had been violated by Captain Moir of the Trent, and it was proposed that an English subscription should be taken for the purpose of prosecuting him in case the queen's attorney-general or the owners of the vessel declined to bring a suit against him.

Such was the effect of the capture as far as the northern states were concerned. At first there was universal rejoicing. This was followed by more or less of doubt, and by discussion in justification of the act. As the weeks progressed, anxiety developed concerning the position which England would assume in regard to the matter. At that time there was no ocean telegraph and

[1] Chicago Times, special Washington correspondence, Nov. 21, 1861.

weeks must necessarily elapse before any news could be received from the opposite side of the Atlantic. Meantime Lord Lyons maintained absolute silence in regard to the matter. If, during this time, he expressed any opinion, there is no record of it. It was said by the press that "his lordship was in a pet." He was too discreet to express any opinion when he did not know what position his government would assume in regard to the act.

The sentiments of the Confederacy were freely expressed as soon as it was known there that the envoys had been captured and brought to the United States. The New Orleans Crescent said that Captain Wilkes's act was a "high-handed interference with a British mail steamer by the Lincoln government," and that it would "either arouse John Bull to the highest pitch of indignation or demonstrate that there has been an understanding between the two governments for a long time—that England has been and is assisting the abolition government to the detriment of the South."

In a few days after the seizure, Jefferson Davis sent a message to the Confederate congress, in the course of which he said: "The distinguished gentlemen, who, with your approval at the last session, were commissioned to represent the Confederacy at certain foreign courts, have recently been seized by the captain of a United States vessel of war while on board a British mail steamer, while on a voyage from the neutral Spanish port of Havana to England. The United States have thus claimed a general jurisdiction over the high seas, and, entering a British ship sailing under its country's flag, have violated the rights of embassy for the

most part held sacred even among barbarians, by seizing our ministers whilst under the protection and within the dominion of a neutral nation.

"These gentlemen were as much under the jurisdiction of the British government upon that ship and beneath that flag as if they had been on its soil, and a claim on the part of the United States to seize them in the streets of London would have been as well founded as that to apprehend them where they were taken; had they been malefactors, or citizens even, of the United States, they could not have been arrested on board of a British ship or on British soil unless under the express provisions of treaty, and according to the forms therein provided for the extradition of criminals."

This plaintive wail in behalf of Messrs. Mason and Slidell was intended for European ears. This portion of Mr. Davis's communication which has just been quoted is more of a message to the English government and people than it is to the Confederate congress. It was hoped that British sympathy would thus be more fully aroused.

Discordant voices were heard, too, about this time from across the Canadian line. The Toronto Leader denounced the act as "the most offensive outrage which Brother Jonathan has dared to perpetrate upon the British flag," and claimed that immediate reparation should be demanded by requiring an apology and the liberation of the prisoners.

Another well-known Canadian newspaper said as soon as the news of the capture had been confirmed: [1] "The seizure of Slidell and Mason was wrong, but it was also

[1] Editorial, Toronto Globe of Nov. 18, 1861.

one of the most absurd and stupid acts which history records. These diplomatists were going to Europe to stir up feeling against the North and secure the acknowledgment of the Southern Confederacy. In seizing them the American officer did more to accomplish their errand than anything they could possibly have done themselves. We have no expectation that the British government will deal with the matter otherwise than temperately, but the collision will strengthen the hands of the not uninfluential parties in Britain who are striving to induce the government to interfere in the American quarrel. Better have had ten Slidells and Masons in Europe than permit such a cause of quarrel to arise. We do not know what may be the character of the captain of the San Jacinto for loyalty, but if he intended to help the insurgents he could not have gone about the work better. The American vessels have been vainly chasing the Sumter from port to port; they have allowed the Bermuda to enter Savannah and to leave it; they have permitted the Huntsville[1] to reach the Bermudas, and receive the cargo of the Fingal; they have reserved all their courage and activity to stop an unarmed neutral vessel on the seas and take from her two venerable non-combatants. But for the Port Royal bombardment, the whole American naval service would sink beneath contempt.

"The extreme anxiety of the Washington government to prevent the southern diplomatists reaching Europe is a curious proof of weakness in men who profess to be careless as to the action of foreign powers. The United States have nothing to fear from Europe,

[1] The Nashville is probably meant.

if they go on with the war vigorously and succeed in the desired object of preserving the Union, and it is altogether a very small business to hunt a couple of men over the ocean to prevent them using their tongues to persuade the shrewd rulers of England and France to do violence to their own interests by entering upon a great war. It was bad enough to send four vessels after them when their departure by the Huntsville was announced, but to run the risk of a war with England for such an object is an act of mid-summer madness. It will add infinitely to the strength and dignity of the American government if, without waiting for remonstrances from Britain, they at once set free the captives and send them on their road to Europe. It will be right, which is infinitely better than being expedient, but it will also show that the North has confidence in the goodness of its cause, and does not fear the tongues of traitors, well-poised though they may be."

On November 30, six days after the commissioners had been received at Fort Warren, Mr. Seward forwarded a dispatch to Minister Adams at London, in which, after mentioning other matters, the following language was used: "Since that conversation was held Captain Wilkes, of the steamer San Jacinto, has boarded a British colonial steamer and taken from her deck two insurgents who were proceeding to Europe on an errand of treason against their own country. This is a new incident, unknown to, and unforeseen, at least in its circumstances, by Lord Palmerston. It is to be met and disposed of by the two governments, if possible, in the spirit to which I have adverted. Lord Lyons has prudently refrained from opening the subject to me, as, I

presume, waiting instructions from home. We have done nothing on the subject to anticipate the discussion, and we have not furnished you with any explanations. We adhere to that course now, because we think it more prudent that the ground taken by the British government should be first made known to us here, and that the discussion, if there must be one, shall be had here. It is proper, however, that you should know one fact in the case, without indicating that we attach much importance to it, namely, that, in the capture of Messrs. Mason and Slidell on board a British vessel, Captain Wilkes having acted without any instructions from the government, the subject is therefore free from the embarrassment which might have resulted if the act had been specially directed by us

"I trust that the British government will consider the subject in a friendly temper, and it may expect the best disposition on the part of this government."

It will be seen hereafter how important this timely statement of Mr. Seward's became in the final settlement of the matter between the two countries.

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CHAPTER XII.

THE EFFECT IN ENGLAND.

IMMEDIATELY after the Trent and San Jacinto separated on the afternoon of November 8, the purser of the former vessel, thinking doubtless that it would be quite an honor to himself to be first in reporting the matter to the British public, addressed a statement to the editor of the London Times, giving the "particulars of the grievous outrage committed to-day against the English flag" by the American captain Wilkes.

Then follows an account of the escape of the southern commissioners from Charleston in "the little steamer Theodora," their arrival at Havana and embarkation on the Trent, where they felt entirely safe under a neutral flag. The purser then says that on the second day of the voyage a large steamer was observed ahead in the Bahama channel; that she was evidently waiting, and first gave notice of her nationality and intention by firing a round shot across the bows of the Trent, and at the same moment displaying American colors; that upon a nearer approach, a large shell was fired across the bows of the English vessel; that it "passed within a few yards of the ship, bursting about a hundred yards to leeward." It is then stated that the Trent stopped;

that a large boat containing between twenty and thirty heavily-armed men pushed off from the side of the San Jacinto under the command of a lieutenant, who boarded the Trent and demanded the papers and passenger list of the vessel, and afterward the surrender of the commissioners, all of which was indignantly refused; that the lieutenant then walked to the side of the ship and waved his hand toward the San Jacinto, after which, "immediately three more heavily-armed boats pushed off and surrounded the ship, and the party of marines who had come in the first boat came up and took possession of the quarter-deck," and that the envoys were then seized and forcibly put into the boat against the protest of all the passengers and crew, including Captain Williams of the Royal Navy.

The account continues as follows: "During the whole of this time the San Jacinto was about two hundred yards distant from us on the port beam, her broadside guns, which were all manned, directly bearing upon us. Any open resistance to such a force was of course hopeless, although from the loud and repeated plaudits which followed Captain Williams's protestation, and which were joined in by every one, without exception, of the passengers congregated on the quarter-deck, men of all nations, and from the manifested desire of some to resist to the last, I have no doubt but that every person would have joined heart and soul in the struggle had our commander but given the order. Such an order he could not, under such adverse circumstances, conscientiously give, and it was therefore considered sufficient that a party of marines with bayonets fixed should forcibly lay hands on the gentlemen named. This was

done, and the gentlemen retired to their cabins to arrange some few changes of clothing."

"A most heart-rending scene now took place between Mr. Slidell, his eldest daughter, a noble girl devoted to her father, and the lieutenant. It would require a far more able pen than mine to describe how, with flashing eyes and quivering lips, she threw herself in the doorway of the cabin where her father was, resolved to defend him with her life, till, on the order being given to the marines to advance, which they did with bayonets pointed at this poor defenseless girl, her father ended the painful scene by escaping from the cabin by a window, when he was immediately seized by the marines and hurried to the boat, calling out to Captain Moir as he left that he held him and his government responsible for this outrage.

"If further proof were required of the meanness and cowardly bullying in the line of conduct pursued by the captain of the San Jacinto, I may remark, first, that on being asked if they would have committed this outrage if we had been a man of war, they replied, 'certainly not;' and, secondly, that Captain Wilkes sent an order for Captain Moir to go on board his ship, and a second for Captain Moir to move the Trent closer to the San Jacinto. Of course not the slightest notice was taken of either order, nor did they attempt to enforce them."

It will be noticed that the paragraphs quoted were specially prepared to excite the indignation of the British public. The entire account is very sensational and highly colored. Some statements in it are pure fictions, if the testimony of the officers who boarded the Trent are at all worthy of credence.

On November 9, while yet at sea, Commander Williams prepared an official report of the matter to be submitted to the admiralty as soon as he arrived in England. This account was substantially the same as that given by the purser, except that some of the facts are more distorted, and the number of fictions in it somewhat larger.

The report of Commander Williams and the statement of the purser of the Trent reached England and were made public on November 27. With a ministry and parliament composed largely of enemies of the United States, with nearly all of the rich and influential class unfriendly, with a press which exhibited only hatred for the North, and continually advocated the cause of the South, with a large population of merchants, tradesmen and cotton workers who were complaining on account of the injuries they sustained from the blockade, and who were anxious for the government to interfere in the American difficulty, it may readily be imagined what effect the news of Captain Wilkes's act created in England. If it had been reported that the Americans had deliberately and wantonly captured and burned the Trent and her cargo, the excitement throughout the country would not have been greater. No single announcement in modern times has affected the English government and people as did that of Commander Williams and the purser of the Trent. With a few notable exceptions among the prominent men, it was everywhere proclaimed by both press and people that Captain Wilkes's act was a violation of international law, an attack on the sacred right of asylum, a "wanton outrage and an insult" which should not for

a moment be tolerated. The government was called upon to vindicate the honor of the British flag by instantly exacting a full and complete reparation, or, in the event of failure to obtain it, war must be declared against the Federal States of America at once, and such a castigation administered to the insolent Yankees as would thrice over atone for the indignity they had dared to offer to England. There was very little discussion of texts or precedents, or of the legality of the matter. The offensive and intolerant course which the English navy had pursued toward all neutral powers during and after the Napoleonic wars was apparently forgotten, because it was not convenient to remember it just then. Public meetings denounced the "outrage," prominent men condemned it, and the English newspapers with very few exceptions used their utmost endeavors to stir up the indignation and the war spirit of the British people. The most violent abuse and malignant hatred of everything American was exhibited, not only in the ordinary newspapers, but also in the conservative reviews and quarterlies. A storm of indignation which has rarely been equaled swept the British nation from Edinburgh to Dover.

It is not difficult for a government to find a pretext for making war or parading its military power in the sight of another nation, whenever it desires to do so. The British government was not slow to act in this case. Lord Palmerston, its leader, was an enemy of the American republic, and was easily swayed by the popular feeling and by his own prejudice.

Preparations for war were begun on a scale which was sufficient to tax the utmost strength and resources

of the United Kingdom. There was no delay after the reception of the news, but operations were pushed with a feverish activity both day and night. On November 30 the lords commissioners of the admiralty were instructed by Lord Russell to direct Vice-Admiral Sir Alexander Milne to communicate fully with Lord Lyons at Washington. Earl Russell mentions the recent "act of wanton violence and outrage," and says it is necessary to "look to the safety of her majesty's possessions in North America," and that care should be taken not to place any of the ships in positions "where they may be surprised or commanded by batteries on land of a superior force." Arrangements were also made at once for a large increase in the British naval force in North American and West Indian waters.

On the same day an official order was issued forbidding the shipment of any saltpeter until further notice was given. Large quantities of it had already been placed in lighters at the London custom-house ready to be loaded on board outgoing ships, but the whole was relanded and returned into warehouses under the supervision of custom officers. On December 4, Queen Victoria issued a royal proclamation forbidding the export of gunpowder, niter, nitrate of soda, brimstone, lead and fire-arms from all the ports of the United Kingdom. At the great Woolwich arsenal there was the bustle of extraordinary activity, and work which was not suspended either for night or Sunday. Enfield rifles, cannon, and great quantities of ammunition and other warlike material were being loaded on board the great ship Melbourne for transportation to Canada. On Sunday, December 1, twenty-five thousand muskets

were conveyed from the Tower and loaded for shipment. Large quantities of Armstrong and Whitworth cannon were immediately purchased by the government. Transports of large capacity were needed. The great steam packet Persia was taken from other service and employed to transport troops to Canada. The immense iron-clad ship, The Warrior, the best war vessel in the British navy, was hastily prepared for service. Unusual activity was noticeable at all of the dock yards. War vessels were being hastily put into a state of forwardness for real service.

The Earl of Derby was consulted by the government in regard to the "American difficulty." He approved its policy and suggested to ship-owners that the captains of outward bound ships be instructed to signal any English ships which they might see that war with America was probable. This suggestion was strongly approved by underwriters, in whose imaginations privateers were already at work. No insurance could be had on American vessels on any terms.

In the stock market, too, a panic prevailed, and American securities dropped amazingly in view of the war which seemed at hand.

Preparations were also made for placing the military forces upon a war footing, and it was arranged to increase the army in Canada at once by an addition of thirty thousand men. Recruiting began with unusual vigor. The very flower of the British standing army were mustered and passed in review, after which they embarked for Halifax. Among them were all of the most noted batteries and regiments, among which were the guards, to whom was accorded the distinguished

honor of taking part in all important wars. These were the first to start to the seat of war. They believed that they were going to Charleston to help the Confederates. The guards played the well known American air, "I am off to Charleston," while embarking on their vessels.

Thurlow Weed, who was then in England, says: "I rose early on Friday morning and went down to St. James's barracks to see a regiment of guards take up their line of march for Canada. Nearly fifty years had elapsed since I had seen 'British red-coats' whose muskets were turned against us. Something of the old feeling—a feeling which I supposed had died out, began to rise, and, after a few moments of painful thought, I turned away."[1]

One of the principal newspapers of London, in an account of the departure of the transports Adriatic and Parana with troops for Canada, said: "As the Adriatic moved out of dock, the large shields on her paddle-boxes emblazoned with the stars and stripes, reminded everybody of the remarkable coincidence that an American-built steamer, and until within a few months the property of American owners, should be one of the first employed in the transport of British troops to the northern part of the American continent, to operate, probably, against the country in which she was built.

"On the two vessels leaving the docks, the volunteer band took up a position on the extreme end of the jetty, and as the Adriatic slowly moved past, they played the appropriate airs, "I Wish I Was in Dixie," and "The British Grenadiers," followed by, "Cheer, Boys, Cheer,"

[1] Life of Thurlow Weed, Vol. II, p. 368.

and "Should Auld Acquaintance be Forgot," as the Parana passed, in each case closing with "God Save the Queen," after which several parting rounds of enthusiastic cheers were exchanged between the multitude of spectators on shore and the gallant fellows on board the vessels."[1]

A Paris correspondent of one of the principal newspapers of New York said: "The sudden dispatch of arms and men to Halifax, the outfit of numerous heavy ships of war, the violent language of the British press and concurrence of the French press, are events out of proportion to the nominal cause of them, and indicate a secret design and a foregone conclusion," after which the opinion is expressed that the British government from the beginning "was disposed to aid the rebellion for the purpose of dissolving the Union."

The action of the governmental authorities as detailed thus far is well summarized by an English writer, who says: "The most energetic preparations were made by the English government to meet the contingency in case the demand they instantly made for the surrender of the passengers was not instantly complied with. Troops were dispatched to Canada with all possible expedition, and that brave and loyal colony called out its militia and volunteers so as to be ready to act at a moment's notice. Our dockyards here resounded with the din of workmen getting vessels fitted for sea, and there was but one feeling which animated all classes and parties in the country, and that was a determination to vindi-

[1] London Times, Dec. 19, 1861.

cate our insulted honor, and uphold the inviolability of the national flag." [1]

Another English writer says of the situation: "The outrage savored so much of contemptuous defiance that the national feeling was wounded to the quick. 'Bear this, bear all,' was the prevailing cry, and not an hour was lost in making preparations for the war which it seemed to be the object of the Americans to provoke. Among other measures which showed how thoroughly we were in earnest, troops to the number of eight thousand were dispatched to Canada." [2]

The news of the boarding of the Trent by a Federal war steamer and the forcible removal of the southern commissioners was received at Liverpool by a private telegram soon after noon on the same day that the matter first became known in England. The intelligence spread in a wonderfully rapid manner and caused the greatest excitement among all classes. The utmost indignation was expressed on 'Change and in a very brief space of time the following placard was conspicuously posted:

"OUTRAGE ON THE BRITISH FLAG.

THE SOUTHERN COMMISSIONERS FORCIBLY REMOVED FROM A BRITISH MAIL STEAMER.

"A public meeting will be held in the cotton sales-room at 3 o'clock."

The preceding announcement was sufficient to cause the assembling of a large crowd in the cotton sales-

[1] Annual Register of History, 1861, p. 254.

[2] Martin's Life of the Prince Consort, Vol. v, p. 347.

room promptly at 3 o'clock. Nearly all of the gentlemen who frequented the exchange were present. The most remarkable enthusiasm was manifested, and Mr. James Spence was called to the chair.

The following resolution was offered: "That this meeting, having heard with indignation that an American Federal ship of war has forcibly taken from a British mail steamer certain passengers, who were proceeding peaceably under the shelter of our flag from one neutral port to another, do earnestly call upon the government to assert the dignity of the British flag by requiring prompt reparation for this outrage." The resolution having been read, the meeting demonstrated its concurrence with the views contained in it by long continued and uproarious applause. After order had been partially restored the chairman proceeded to discuss the resolution. He said that "when the news of the outrage reached this town, the feeling created was one of surprise, mingled with indignation. He remarked that we had all heard of the sacred dignity of the American flag. That dignity was a means by which the persons engaged in the nefarious slave trade could at once protect themselves by hoisting the American flag, which fully enabled them to resist any attempt to search such vessel. He trusted it would not be allowed that men prosecuting so nefarious a trade should be protected, and that men peaceably proceeding on their own affairs, under the protection of our flag, might be forcibly taken out of our ships. [Cheers.] On the contrary, he believed that the people of this country would not by any means permit such an outrage. [Cheers.] He said, in having agreed to take the

chair on this occasion, he did so without reluctance or regret; he felt deeply that he only expressed the feeling, not merely of the meeting, but of the community in general, when he said it was the duty of the people to press on the government the imperative necessity of vindicating the honor and dignity of the British name and flag." [Loud and continued cheering.][1]

Other speakers who desired to present a slightly more conservative view of the matter were greeted with the greatest manifestations of displeasure, the last one being compelled to desist from the attempt to address the meeting. The resolution after being slightly modified was adopted.

While all England was in a state of excitement over the seizure a great meeting was held at Dublin, Ireland. The "Young O'Donoughue," a member of one of the most ancient families of his native country, a brilliant and powerful young orator, addressed the people. Standing before a crowd of probably five thousand people, he boldly declared that if England engaged in a war with the United States, Ireland would be found on the side of America—a statement which the vast assemblage cheered with tremendous enthusiasm.

The tone of the British press was, with few exceptions, quite vindictive. Captain Wilkes received much abuse. Some very absurd threats were made, and much bluster was indulged in.

The London Times in discussing the matter was unwilling to admit that similar British precedents were entitled to be considered in justification of the act of

[1] London Times, November 28, 1861.

Captain Wilkes. The comment was as follows: "But it must be remembered that these decisions were given under circumstances very different from those which now occur. Steamers in those days did not exist, and mail vessels carrying letters wherein all of the nations of the world have immediate interests were unknown. We were fighting for existence, and we did in those days what we should neither do nor allow others to do, nor expect ourselves to be allowed to do in these days." [1] This journal was the accredited exponent of British opinion at that time so far as the government and ruling classes were concerned. The following tirade of coarse abuse of Captain Wilkes and Americans generally graced the columns of the Times on one occasion while the matter of difference between the two nations was yet unsettled: "He is unfortunately but too faithful a type of the people in whose foul mission he is engaged. He is an ideal Yankee. Swagger and ferocity, built on a foundation of vulgarity and cowardice—these are his characteristics, and these are the most prominent marks by which his countrymen, generally speaking, are known all over the world. To bully the weak, to triumph over the helpless, to trample on every law of country and custom, willfully to violate all the most sacred interests of human nature, to defy as long as danger does not appear, and, as soon as real peril shows itself, to sneak aside and run away—these are the virtues of the race which presumes to announce itself as the leader of civilization and the prophet of human progress in these latter days. By Captain Wilkes let the Yankee breed be judged."

[1] London Times, Nov. 28, 1861.

The Saturday Review, the special organ of the aristocratic classes, said: "The American government is in the position of the rude boor, conscious of infinite powers of annoyance, destitute alike of scruples and of shame, recognizing only the arbitration of the strong arm, which repudiates the appeal to codes, and presuming, not without reason, that more scrupulous states will avoid or defer such an arbitration as long as they can."

The London Punch published a cartoon about the first of December, in which America is represented by a little blustering slave-driver bearing the American flag. England appears as a large British sailor, who faces the little American and says: ("You do what's right, my son, or I'll blow you out of the water.") The big Briton also says to a very ungainly American officer who appears: "Now mind you sir, no shuffling, an ample apology, or I will put the matter into the hands of my lawyers, Messrs. Whitworth and Armstrong." These individuals were manufacturers of cannon which the government was buying at that time for shipment to Canada.

The London Herald was especially bitter in its attacks on President Lincoln and Mr. Seward, and in its condemnation of Captain Wilkes's act. In one of its issues this newspaper said editorially: "Mr. Seward's want of common sense, reticence and principle, have long been notorious to Americans, and recent circumstances have directed to him an amount of English attention which has made him equally well understood and despised in this country. Unhappily, until yesterday, we had not been able fully to appreciate the ex-

tent and depth of his moral and mental worthlessness. We knew that he had proposed to 'annex' Canada, but the idea was to us who know our strength and the weakness of the United States so utterly ludicrous that we did not, and could not, appreciate the folly and desperate wickedness of the man who could put it forward as a serious proposal. Since then Mr. Seward has done everything in his power to insult Great Britain. He has encouraged the piratical seizure of our ships; he has ordered the illegal arrest of British subjects; he has directed his envoys at foreign courts to resist and menace us.

"Unless Mr. Seward be simply out of his senses with rage, fear and helplessness—unless he be intoxicated with his own boastfulness till he believes his own statements —he must be aware that England can, before the present month is passed, destroy or take possession of every seaport in the northern states, raise the blockade of the southern coast and sweep the seas clear of the Federal flag. And yet with this knowledge, he has ventured on us an outrage which ought to be avenged by the immediate appearance of a British fleet in the Chesapeake, bringing the alternative of instant reparation or war.

"The chastisement which the offending government will receive will, we trust, be severe enough, without the stimulus of this additional atrocity to rouse the indignation of England into fury, and spur the timidity of her majesty's cabinet into action. We are glad to know that the agent in charge of the mails warned the offenders in a tone which suited the occasion and the rank he held."

The hope was then expressed that Commander Will-

iams's protest would "be speedily enforced by the still sterner protest of a British fleet, conveying even to Mr. Seward's dull conscience and Mr. Lincoln's bewildered brain a proper sense of the consequences which follow the perpetration on board a British vessel" of such a terrible outrage as the Americans had lately been guilty of committing. The last paragraph read as follows: "What we have to do is sufficiently clear. It is the duty of our government to demand the immediate return of the gentlemen stolen from under our flag, in honorable guise, together with an ample apology for a lawless act of piratical aggression, and to prepare for the rejection of such a demand by dispatching forthwith to the American coast such a naval force as may insure the total destruction of the Federal navy, and the instant blockade of all of the chief northern ports, if due satisfaction be not given without delay."

During the entire period of excitement which was caused in England by the seizure of the commissioners, the concentrated wrath of the British press and public was poured upon the devoted head of Mr. Seward. His bold stand against any recognition being extended to the Confederates by England, and his recommendation that the coasts and lake frontiers of the United States be put into a condition to resist foreign aggression, caused all Englishmen who sympathized with the South to hate him. It was said in England, and continually repeated and emphasized by the British press, that Mr. Seward and the Federal government at Washington proposed to annex Canada to the United States; that a pretext was wanted for a quarrel and a war with Great Britain; and that the boarding of the Trent and seizure

of the commissioners was a deliberate insult in pursuance of the secretary of state's design to provoke a rupture between the two countries. Universal and widespread circulation was also given to a silly story to the effect that while the Prince of Wales was in the United States, Governor Morgan had given a dinner party to the royal guest, at which Mr. Seward and the Duke of Newcastle were both present, when the former said to the duke: "I expect soon to hold a very high office here in my own country; it will then become my duty to insult England, and I mean to do so.". There can be no doubt but that the Duke of Newcastle told such a silly story, and it is highly probable that a belief in its truthfulness strongly influenced the government of England in the active and hasty preparations for war.[1]

Mr. Thurlow Weed, who had been previously sent to England to influence public opinion there in favor of the North, wrote to Mr. Seward about the matter. Mr. Seward was greatly surprised, and replied that the story was so extremely absurd that to give it sufficient notice to deny it would be almost a sacrifice of personal dignity on his own part.

The London Times having expressed at one time a "yearning" in England after American views upon the existing complication between the two countries, Mr. Weed ventured to supply the desired information in a letter which he immediately contributed to that journal. In this letter he entered a general denial of the assertion that the Federal government desired a rupture with England, and did what he could to undeceive the British

[1] See Geo. Peabody's letter to Thurlow Weed. Memoir of Weed, p. 365.

public concerning the Seward-Newcastle story. Mr. Adams was referred to for a true reflex of American sympathies. The opinion was expressed that England had no real grievance of any substantial nature against the United States, as the boundary disputes and other questions of importance had been satisfactorily settled. The magnificent reception of the Prince of Wales in the United States, and the high estimation in which Americans held the Queen, also the fact that both nations were of kindred origin, and spoke the same language, were all dwelt upon. Gen. Scott's recent letter on the situation contributed to the Paris press was mentioned.

Mr. Weed said that he knew nothing of the proposed course of the British government, but he expressed the opinion that a peremptory demand for the release of the envoys would be met by as peremptory a refusal, since in temper and pride Americans were as unreasoning as the bad example of their mother country could make them. He did not believe that Mason and Slidell were worth a war, and hoped the matter would be considered calmly and with due deliberation.

The same issue of the Times which contained Mr. Weed's letter accompanied it with a leader replying to his views and asserting the English position. It was held that "the present prime minister of the Northern States of America" had long possessed "a deliberate and long cherished intention" to do England a wrong. The proofs were ample, being the Newcastle incident, the expressed wish of Mr. Seward to annex Canada, his circular to the governors of the northern states, and lastly the seizure of the commissioners on board an

English ship. This was sufficient evidence "that upon his ability to involve the United States in a war with England, Mr. Seward has staked his official, and, most probably, also his political existence, and that whatever may be the advantage to America of a war with this country, to him it has become an article of the very first necessity." Mr. Seward was then abused for designing so great an evil. Exception was taken to each point made by Mr. Weed, and the leader closed with the following paragraph: "But her forbearance (that of America) will never be tried. We can, we think, convey to Mr. Thurlow Weed the sentiments of every Englishman on this painful subject. We do not ask from America courtesy or affection, respect for our Queen or regard for our Prince. These things are hers to give or withhold. We do not even ask that amount of fair treatment which we are in the habit of receiving from other nations. We have long ago made up our minds to dispense with that; but we do demand that she abstain from actual outrage, or that, if it is committed, she shall make reasonable reparation. If she will do this, it is well; if not, the alternative will not come in the desired form of protracted negotiations."

When the news of the seizure of the southern commissioners was received in Europe, General Winfield Scott was in Paris. It was his intention to spend the winter in southern Europe. The storm which the news created in England extended in a less degree to France. The newspapers of Paris condemned the act. It was fortunate, perhaps, that General Scott was in the French capital, for he, being one of the most distinguished of Americans at that time, was best able to

command a hearing in England and France. He immediately addressed a letter to the Paris press giving his views of the situation, which he comprehended with the greatest clearness. He expressed the opinion that the seizure could not have been authorized from Washington, and that the matter was capable of being amicably adjusted.

The following paragraphs taken from the general's letter very nearly indicate grounds which Mr. Seward assumed afterward in the settlement of the case.

"If, under the circumstances, England should deem it her duty in the interest of civilization to insist upon the restoration of the men taken from under the protection of her flag, it will be, without doubt, that the law of nations in regard to the rights of neutrals, which she has taken a leading part in establishing, requires revision."

"If England is disposed to do her part in stripping war of half its horrors by accepting the policy long and persistenly urged upon her by our government, and commended by every principle of justice and humanity, she will find no ground, in the visit of the Trent, for controversy with our government."

"I am sure that the president and people of the United States would be but too happy to let these men go free, unnatural and unpardonable as their offenses have been, if by it they could emancipate the commerce of the world."

A few days later the general became alarmed at the threatening state of affairs and hastily embarked for the United States, saying that if there was to be a war with England, perhaps he could be of some service to his

country. In the sudden departure of General Scott, the London press found additional evidence of feelings in America hostile to England, as, they said, he had gone home in obedience to a hasty summons from Washington. This was not true. He returned because he regarded it as his duty to do so.

While the excitement was so great in England, Commander Williams suddenly became an individual of national prominence. His "protest" against the seizure of the commissioners was everywhere applauded. Much was made of him by the press and by various organizations. On December 12 a public dinner was given to him by the Royal Western Yacht Club of England. That he had evidently lost his head is apparent from the perusal of the "braggadocio" speech made upon that occasion. He gave such an account of the seizure of the envoys as would suit the occasion and make a hero of himself. The following verbatim extract is illustrative:

"Now, gentlemen, I have only one more subject that I know of on which to speak—the circumstances attending the gallant Federal marines rushing with the points of their bayonets at Miss Slidell. [Hear, hear.] It was at this point that she screamed, for her father snatched himself away from her—I do not mean snatched himself rudely, but he snatched himself away from her to break the window of his cabin, through which he thrust his body out. But the hole was so small that I hardly thought it would admit the circumference of his waist. It was then the lady screamed. I am charged by Mr. Fairfax 'that my manner was so violent that he was compelled to request Captain Moir

to remove me.' [Nonsense.] But when the marines rushed on at the point of their bayonets—and I believe it is not necessary that I should make a solemn asseveration that it is true—[No, no]—when they rushed on at the point of the bayonet, I had just time to put my body between their bayonets and Miss Slidell—[oh!]—and I said to them, and if Henry of Exeter were here I would ask him for his absolution for it—[laughter]—I said to them, 'Back, you d— cowardly poltroons.'" This ridiculous speech was believed, applauded and given a wide circulation.

The chances of an English war with the United States caused great excitement in Canada, and there was a general call to arms at once. The militia were called out and volunteers were everywhere drilled with the greatest exactness and constancy. Extra time was taken from business for military duties, and one Canadian journal estimated that an army of two hundred thousand men could easily be put into the field. Bodies of regular troops were in motion from one part of the provinces to another. Old fortifications were carefully inspected and new ones begun along the whole Canadian frontier. Toronto and other exposed cities were carefully looked after, and, although it was in the midst of a severe Canadian winter, preparations were made everywhere for immediate war.[1]

There was in England from the beginning a very feeble undercurrent of sentiment opposed to the well-nigh universal view of the case, just as in America the feeling of congratulation was not quite common to every one. John Bright, than whom the United States never

[1] See New York Herald's account, Dec. 20, 1861.

had a truer or more steadfast friend, took a very conservative view of the case. At a public dinner given at Rochdale on December 4, Mr. Bright made a speech in which he said that he did not indorse the seizure of the southern commissioners, but believed that it was an unauthorized act for which sufficient reparation would be made. He thought that the United States had evinced a great desire to be guided by wise and moderate counsels in the construction of cases under the maritime law. It had been asserted, Mr. Bright said, that this was one of a series of acts showing ill-will on the part of the North, but he believed that irritating accidents were unavoidable in a struggle like the present one and advised his countrymen to be calm. "Let us remember," said he, "how we were dragged into the Russian war—we drifted into it. It cost a hundred million pounds. It cost the lives of forty thousand Englishmen; it injured trade; it doubled the armies of Europe, and it did not accomplish a single thing that was promised."

He then reminded the meeting that large numbers of English people had recently emigrated to the Northern States, and that people bound by such close ties could only be involved in war by misrepresentation, and the most gross and wicked calumny. In conclusion Mr. Bright said he prayed that in future it might not be said by the millions of freemen in the North that in their darkest hour of need the English people, from whom they sprung, had looked on with icy coldness on the trials and sufferings of their terrible struggle.

There was one London newspaper which also dissented from the prevailing view of the case. After

a careful review of the whole matter, on the first day after the news was received, the editor said he "could not understand the fairness of excluding the Unionists from such an obvious resort of belligerent power."

"It would be asking too much that they should stand by and make no effort to prevent ships conveying to and fro persons and papers on the enemy's service. It is at any rate to be desired that questions of this sort should be discussed without heat and decided without haste."[1]

Two days later the same journal said: "Our readers know that our opinion of the affair of the Trent has not been in accordance with that of the law officers of the crown. That opinion is unchanged. We believe that, interpreting the code of international law in the spirit in which that ill-digested code is laid down, Captain Wilkes was justified in taking possession of Messrs. Mason and Slidell. We have not, however, been so much concerned to establish that point as to deprecate sudden and passionate action, which might lead to the most serious complications, and we feel the greatest confidence that our government, actuated as it is by a spirit of moderation, will be met in a like spirit of calmness, moderation, and good sense by the government of the United States. It would indeed be a disgrace to the boasted civilization of the nineteenth century, if, in a disputed point of international law, there were no other mode of obtaining a decision than by a brutal resort to arms."[2]

These opinions, however, were of no avail. They

[1] London Star, November 30, 1861.

[2] Editorial London Star, November 28, 1861.

were given so little consideration either by the people or the government of Great Britain that they might just as well never have been uttered. England proposed to settle the matter upon her own terms and without discussion, delay, or consideration of any views but those of herself.

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CHAPTER XIII.

THE BRITISH DEMAND.

It was well understood in England that Messrs. Mason and Slidell had been commissioned to represent the Confederacy at London and Paris respectively. The difficulties incident to their departure from a blockaded port and the anxiety of the Federal government to prevent the success of their mission were also well known.

An English writer, after giving a brief account of the escape of the commissioners in a blockade-runner, says: "It was correctly assumed that they would embark at Havana on the Trent, a West Indian mail steamer, and travel in her to Europe; it was believed that the government of the United States had issued orders for intercepting the Trent and for capturing the envoys; and it was noticed that a Federal man-of-war had arrived at Falmouth and after coaling had proceeded to Southampton. Lord Russell laid these facts before the law officers, and was advised that a United States man-of-war falling in with a British mail steamer would have the right to board her, open her mail bags, examine their contents, and, if the steamer should prove liable to confiscation for carrying dispatches from the enemy,

put a prize crew on board and carry her to a port of the United States for adjudication. In that case the law officers thought she might, and in their opinion she ought to, disembark the passengers on the mail steamer at some convenient port. But they added 'she would have no right to remove Messrs. Mason and Slidell and carry them off as prisoners, leaving the ship to pursue her voyage.' A few days before the law officers gave this opinion, the San Jacinto, an American war steamer, intercepted the Trent and did the very thing which the law officers had advised she had no right to do." [1]

As soon as Commander Williams landed in England he was sent to London in hot haste on a special train in order to report the circumstances to the government without any delay. After arriving there he spent the remainder of that day and part of the night at the British foreign office making an official report to Premier Palmerston and the lords commissioners of the admiralty.

The facts as reported by Commander Williams were immediately submitted to the crown law officers, who, after a brief consideration of the matter, reported that the seizure of the commissioners was entirely illegal and not sanctioned by the law of nations.[2]

The case was then considered by the cabinet, and, on November 29, only two days after the news of the boarding of the Trent and seizure of the envoys had

[1] Spencer Walpole's Life of John Russell, Vol. II, pp. 344–5.

[2] The authority for this statement is a letter from the Rt. Hon. Earl of Kimberly, her majesty's secretary for foreign affairs, in response to an inquiry addressed to him by the author.

reached England, Lord Palmerston prepared a note to the queen in which he formulated a statement of a demand to be made at once upon the American government. He wrote to her majesty as follows: "The general outline and tenor which appeared to meet the opinions of the cabinet would be, that the Washington government should be told that what has been done is a violation of international law and of the rights of Great Britain, and that your majesty's government trust that the act will be disavowed and the prisoners set free and restored to British protection, and that Lord Lyons should be instructed that, if this demand is refused, he should retire from the United States." [1]

A copy of the proposed dispatch to Lord Lyons was also forwarded to her majesty, who, with Prince Albert, carefully examined it. Both were profoundly impressed by the fact that the communication indicated a crisis in the affairs of the two countries and that a speedy rupture and war were not improbable. Illness and the serious character of this new political question made it impossible for the prince to sleep during the following night. Upon getting up, although scarcely able to hold a pen while writing, he prepared a memorandum of the changes which her majesty desired to have made in the dispatch to America. The queen preferred that language should be used which was less harsh and offensive in character than that contained in the first draft of the note to the American government. In its uncorrected form the draft of the note not only charged the violation of international law but added an accusation of "wanton insult," although the belief was

[1] Martin's Life of the Prince Consort, Vol. v, p. 420.

asserted that it was not intentional. Prince Albert's memorandum, corrected with the queen's own hand, was returned, and the dispatch which was subsequently forwarded to Lord Lyons shows that her majesty's suggestions were fully observed. This was the prince's last political writing. His illness grew worse and he died before the communication which he and the queen had aided in preparing was answered by the American government.

The prince's memorandum, as corrected by the queen and returned by her to the ministry, was as follows: "The queen returns these important drafts which upon the whole she approves, but she can not help feeling that the main draft—that for communication to the American government—is somewhat meagre. She would have liked to have seen the expression of a hope that the American captain did not act under instructions, or, if he did that he misapprehended—that the United States government must be fully aware that the British government could not allow its flag to be insulted and the security of its mail communications to be placed in jeopardy, and her majesty's government are unwilling to believe that the United States government intended wantonly to put an insult upon this country, and to add to their many distressing complications by forcing a question of dispute upon us; and that we are, therefore, glad to believe that upon a full consideration of the circumstances of the undoubted breach of international law committed, they would spontaneously offer such redress as alone would satisfy this country, viz., the restoration of the unfortunate passengers and a suitable apology." [1]

[1] Martin's Life of the Prince Consort, Vol. v, p. 422.

Having received this memorandum from the queen, Earl Russell immediately prepared dispatches for Lord Lyons at Washington instructing his lordship to make certain demands of the American government and ordering him what to do in case they were refused. The text of the one containing the demands to be made was as follows:

"FOREIGN OFFICE, Nov. 30, 1861.

"MY LORD—Intelligence of a very grave nature has reached her majesty's government.

"This intelligence was conveyed officially to the knowledge of the admiralty by Commander Williams, agent for mails on board the contract steamer Trent.

"It appears from the letter of Commander Williams, dated 'Royal Mail Contract Packet Trent, at sea, November 9,' that the Trent left Havana on the 7th instant, with her majesty's mails for England, having on board numerous passengers. Commander Williams states that shortly after noon, on the 8th, a steamer having the appearance of a man-of-war, but not showing colors, was observed ahead. On nearing her, at 1:15 P. M., she fired a round shot from her pivot-gun across the bows of the Trent and showed American colors. While the Trent was approaching her slowly, the American vessel discharged a shell across the bows of the Trent exploding half a cable's length ahead of her. The Trent then stopped, and an officer with a large armed guard of marines boarded her. The officer demanded a list of the passengers, and, compliance with this demand being refused, the officer said he had orders to arrest Messrs. Mason, Slidell, McFarland and Eustis, and that he had sure information of their being passen-

gers in the Trent. While some parley was going on upon this matter, Mr. Slidell stepped forward and told the American officer that the four persons he had named were then standing before him. The commander of the Trent and Commander Williams protested against the act of taking by force out of the Trent these four passengers, then under the protection of the British flag. But the San Jacinto was at that time only two hundred yards from the Trent, her ship's company at quarters, her ports open and tompions out. Resistance was therefore out of the question and the four gentlemen before named were forcibly taken out of the ship. A further demand was made that the commander of the Trent should proceed on board the San Jacinto, but he said he would not go unless forcibly compelled likewise, and this demand was not insisted upon.

"It thus appears that certain individuals have been forcibly taken from on board a British vessel, the ship of a neutral power, while such vessel was pursuing a lawful and innocent voyage—an act of violence which was an affront to the British flag and a violation of international law.

"Her majesty's government, bearing in mind the friendly relations which have long subsisted between Great Britain and the United States, are willing to believe that the United States naval officer who committed the aggression was not acting in compliance with any authority from his government, or that if he conceived himself to be so authorized he greatly misunderstood the instructions he had received. For the government of the United States must be fully aware that the British government could not allow such an affront to the na-

tional honor to pass without full reparation, and her majesty's government are unwilling to believe that it could be the deliberate intention of the government of the United States unnecessarily to force into discussion between the two governments a question of so grave a character, and with regard to which the whole British nation would be sure to entertain such unanimity of feeling.

"Her majesty's government, therefore, trust that when this matter shall have been brought under the consideration of the government of the United States that government will, of its own accord, offer to the British government such redress as alone could satisfy the British nation, namely, the liberation of the four gentlemen and their delivery to your lordship, in order that they may again be placed under British protection, and a suitable apology for the aggression which has been committed.

"Should these terms not be offered by Mr. Seward, you will propose them to him.

"You are at liberty to read this dispatch to the secretary of state, and, if he shall desire it, you will give him a copy of it. I am, etc., RUSSELL."

It will be noticed that this communication is in all respects a model of brevity, precision and clearness. The matter to be considered is directly approached and all facts of whatever kind that are not absolutely necessary to his lordship's view of the case are omitted. The citizenship of the captured persons is not even hinted at, nor is anything said about the nature of their mission. No use is made of the term "confederate" or "rebel." There is no discussion of the principles of international

law bearing upon the case, no reference to texts or precedents, no statement of the rights of belligerents among themselves or their relations to neutral nations. The fact that a great civil war was then raging in the United States, and that the hostile sections of the country were then in belligerent attitudes toward each other is nowhere mentioned in the paper. It is denuded of almost every statement that one would expect to find in such a diplomatic communication. His lordship contents himself with a statement of the main facts in Commander Williams's official report, after which he presents simply the naked idea of four individuals having been forcibly taken from a British ship which was pursuing a lawful and innocent voyage from one neutral port to another, on the high seas and not within the municipal jurisdiction of the United States. The simple act of doing this constitutes a violation of the law of nations, and is "an affront to the British flag." The only measure of redress which will atone for the act is then dictated by Lord Russell, and that is the complete undoing of Captain Wilkes's act by liberating "the four gentlemen," delivering them to Lord Lyons so that they might be placed again under British protection, and apologizing for what had been done.

On the same day that the foregoing dispatch was prepared, Earl Russell also addressed a second communication to Lord Lyons. It was a private letter in which the intentions of the British government could be easily read between the lines. It meant either reparation or an alternative of a very serious character. The following is the body of the letter: "In my previous dispatch of this date I have instructed you by command of her

majesty, to make certain demands of the government of the United States.

"Should Mr. Seward ask for delay in order that this grave and painful matter should be deliberately considered, you will consent to a delay not exceeding seven days. If, at the end of that time, no answer is given, or if any other answer is given except that of a compliance with the demands of her majesty's government, your lordship is instructed to leave Washington with all the members of your legation and repair immediately to London. If, however, you should be of the opinion that the requirements of her majesty's government are substantially complied with, you may report the facts to her majesty's government for their consideration and remain at your post until you receive further orders.

"You will communicate with Vice-Admiral Sir A. Milne immediately upon receiving the answer of the American government, and you will send him a copy of that answer, together with such observations as you may think fit to make.

"You will also give all the information in your power to the governors of Canada, Nova Scotia, New Brunswick, Jamaica, Bermuda and such other of her majesty's possessions as may be within your reach."

The indecent haste and manifest unfairness of the whole proceeding, as well as the bombast and implied threats toward the United States contained in the private note, seem to have slightly impressed even the Earl Russell, for on the same day he addressed a second private note to Lord Lyons as follows: "My wish would be that at your first interview with Mr. Seward you should not take my dispatch with you, but should

prepare him for it and ask him to settle it with the president and cabinet what course they will pursue. The next time you should bring my dispatch and read it to him fully. If he asks what will be the consequence of his refusing compliance I think you should say that you wish to leave him and the president quite free to take their own course, and that you desire to abstain from anything like menace."

This last diplomatic note clearly reveals the motives and policy of the British government in the whole proceeding. It was publicly to browbeat and menace the United States by a parade of their military power and a threat of war, and, at the same time, privately to pave the way for getting out of the difficulty without a resort to arms.

The messenger of the British government arrived in Washington and delivered Earl Russell's dispatches to Lord Lyons on December 18. On the afternoon of the 19th, in accordance with his instructions, his lordship waited on Mr. Seward at the department of state and acquainted him in general terms with the nature of Earl Russell's dispatch demanding reparation, adding at the same time that he hoped the government of the United States would of its own accord offer the desired reparation, and that it was to facilitate such an arrangement that he had come without any sort of written demand.

Mr. Seward received this communication seriously but without manifesting dissatisfaction. He then made some inquiries concerning the exact character of the dispatch and requested that he be given until the next day to consider the matter and to communicate with the president. On the day after, he said that he would be

prepared to give an opinion concerning the matters presented to him at that interview. When Lord Lyons made his next call upon Mr. Seward he brought with him, and formally read to the secretary, the dispatch containing Earl Russell's demand.

Only seven days' grace were allowed from the time when the matter was first presented. Two of these had now gone, and if the demand were complied with, it must be done with promptness, otherwise the doors of the British legation would be closed and diplomatic relations between the two countries suspended.

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CHAPTER XIV.

CONSIDERATION OF THE BRITISH DEMAND IN AMERICA.

BEFORE the middle of December, news of the intense excitement which prevailed in England reached the United States. About this time the New York Tribune said: "England is almost beside herself, is the tenor of the latest and most trustworthy private letters. They say that passion has swept away reason in a manner to an extent unknown since 1831, and that the national sympathy with the South developed by recent events is startling." It having been suggested that the president submit a proposal to settle the matter by arbitration, the New York Journal of Commerce said that if only an adjudication by a court of admiralty were desired by the English government, it "could be easily accommodated by a return of the prisoners on board of the Trent at the point of capture, and then Captain Wilkes could fire a gun across her bow and bring her into port according to law."

On December the 18th, the messenger of the British government, who had been sent from London with dispatches from his government relative to the affair, reached Washington and reported to Lord Lyons. The nature of the messages immediately became known by

some means, and the entire North was excited anew by the prospect of a double war, but still there was a popular belief that the prisoners would not be surrendered, since there appeared to be no reason for a reversal of the almost universal verdict given at the time of the capture.

The momentous question everywhere was, "Will the government at Washington concede the British demand and give up the men?" Everybody wondered whether the angry growl of the British lion would have a sensible effect upon Mr. Lincoln and the administration. "The press took up the exciting theme, and, as usual, differed widely as to the course the government should adopt. Meanwhile the keen-sighted and adventurous began to to talk of and to take steps toward the preparation of cruisers to prey upon the shipping of England, and an army of volunteers to meet the attack of the British army expected at Canada was on the *tapis*. Stocks went down at home and abroad as the warlike feeling in both countries went up, and to the public, war, for a while, seemed imminent." [1]

It was rumored that the prisoners would be given up by the administration. Among those that denied it was the New York Herald, which said it was only a "silly rumor" and that there "was not the slightest truth in the report."

The "silly rumor," however, speedily became a matter of seriousness, and, although not confirmed, it was universally believed, and was discussed by the press and the people of the North. Public opinion was every-

[1] C. K. Tuckerman in Magazine of American History, June, 1886.

where strongly opposed to the course of action which rumor said would be pursued by the government. Such a proceeding, it was said, would be degrading to the nation, and was too humiliating to be endured. The right of a nation to deal as it wishes with its own citizens who are seeking to compass its destruction was confidently affirmed, and, although the case seemed a desperate one in view of the consequences which were almost certain to result from a refusal to accede to the British demand, there was a strong sentiment in favor of accepting what appeared to be the only alternative that remained to the American people, namely, to engage in another war with England. This opinion found favor with many public men, including prominent congressmen.

While this rumor was being discussed by the press and the public, Senator John P. Hale, of New Hampshire, made a speech in the United States senate concerning the matter. After saying that the measure involved more of good or evil to the country than anything that had ever occurred before, he continued as follows: "To my mind a more fatal act could not mark the history of this country—an act that would surrender at once to the arbitrary demand of Great Britain all that was won in the revolution, reduce us to the position of a second rate power, and make us the vassal of Great Britain. I would go as far as any reasonable man would go for peace, but not further. I would not be unwilling to submit this subject to the arbitration of any of the great powers of Europe, but I would not submit to the arbitrary, the absolute demand of Great Britain, to surren-

der these men, and humble our flag even to escape from a war with Great Britain. No man would make more honorable concessions than I would to preserve the peace, but sometimes peace is less honorable and more calamitous than war. The administration which is now in power ought to know what the feeling of the country is."

Mr. Hale then referred to a conversation which he had just had with Senator Lane, of Indiana, who had said that the state of Indiana had then sixty thousand men in the field, and that she would double that number in sixty days if a war with Great Britain were brought about. "I have seen many gentlemen," continued Mr. Hale, "and I have seen none, not a man can be found, who is in favor of this surrender, for it would humiliate us in the eyes of the world, irritate our own people and subject us to their indignant scorn. If we are to have war with Great Britain, it will not be because we refuse to surrender Messrs. Mason and Slidell; that is a mere pretense. If war shall come it will be because Great Britain has determined to force war upon us. They would humiliate us first and fight us afterwards. If we are to be humiliated I prefer to take it after a war, and not before. It is true, war would be a sacrifice to the people. I think I see its horrors, its disasters, its carnage, its blood, and its desolation, but, sir, let war come; let your cities be battered down, your armies be scattered, your fields barren, to preserve untarnished the national honor; a regenerating spirit among your people will restore your armies, and rebuild your cities and make fruitful your fields. * * * I pray that this administration will not surrender our national honor. I tell them that hundreds and thousands

will rush to the battle-field, and bare their breasts to its perils rather than submit to degradation.

* * * * * * * * * *

"But if we are to have war—I do not say that we shall —it will not be without its advantages. It will be a war that can not be carried on without fighting, and if we only understand our true position, we can proclaim to every man who speaks the English language on God's footstool, the cause for which we are fighting; and this appeal will reach the hearts of millions of Enlishmen, Irishmen and Frenchmen.

"We have heard, Mr. President, some fears expressed that Louis Napoleon is taking sides with England, and that we are to contend with the combined energies of both France and England. I do not believe it. I believe if Louis Napoleon harbors one single sentiment, if his action is guided by one single principle, if he has one single feeling that is predominant over all others, it is to have a fair field to retrieve the disastrous issue of Waterloo. And besides, sir, all over this country, throughout Canada, and in Ireland, there are hundreds and thousands and hundreds of thousands of true-hearted Irishmen who have long prayed for an opportunity to retaliate upon England for the wrongs which for centuries that government has inflicted upon their fatherland. If we know our own position and our own strength—I refer to the strength of principle—there will be nothing to be afraid of in this contest. If war must come, let it come; but I tell you, and I do not pretend to be a prophet, I think the slightest sagacity in public councils will sustain me in the position that if England

enters upon this war, she will enter upon one of more than doubtful contingency." [1]

On December 16, in anticipation of the action of the government, Mr. Vallandigham, of Ohio, introduced into the House of Representatives a long preamble reciting the facts concerning the capture of the commissioners by Captain Wilkes, and the subsequent approval of his act by the secretary of the navy and by the popular branch of congress. To this was appended a resolution affirming it to be the sense of the house, "That it is the duty of the president to now firmly maintain the stand thus taken, approving and adopting the act of Captain Wilkes, in spite of any menace or demand of the British government, and that this house pledges its full support to him in upholding now the honor and vindicating the courage of the government and people of the United States against a foreign power." By a vote of one hundred and nine to sixteen the resolution was referred to the committee on foreign affairs, Mr. Vallandigham and his friends voting with the minority. [2]

A prominent public man who at that time was holding the position of minister to one of the European courts thought that "men and money should be sent into Ireland, India and all of the British dominions all over the world, to stir up revolt. Our cause is just, and vengeance will sooner or later overtake that perfidious aristocracy."

The press throughout the North commented very freely upon the situation while the British demand was

[1] Congressional Globe, Dec. 26, 1861.

[2] Mr. Vallandigham's sincerity may well be doubted. His purpose was probably to embarrass the government.

being considered. In general the newspapers did not sanction the proposed course of the government and their belligerent tone plainly indicated that they, too, favored a settlement of the controversy by a resort to arms. The Cincinnati Commercial said: "If war with England can with honor be avoided, we must avoid it; but if a peremptory demand for the release of Mason and Slidell has been made we do not see how it can be honorably complied with."

"If we must fight we should pattern after England and hasten preparations on every side, on a scale commensurate with the danger, and with the celerity becoming action in so dreadful an emergency. One of the first things to be done would be the withdrawing from the southern coast of our fleets and armies, for, if exposed as at present, they would be annihilated in a month after the British commenced hostilities. We should also withdraw the outposts at Fortress Monroe, and provide that place with ample stores of provisions and ammunition that it might laugh a siege to scorn. The defense of our coast would also demand the utmost resources of the endangered communities and the supervision and assistance of the government."

About the same time the Detroit Free Press said that "The threatened attitude of our affairs with England has once more called the attention of the public to our national defenses in the northern states. So far as the lakes are concerned, it would be impossible for England and Canada to offer any resistance, for our mercantile marine—much of which can be used temporarily until ships of war can be constructed—is more than a hundred fold more than theirs. We have more than a hundred

ships where England and Canada have one, and our sailors upon these inland seas are in the same proportion. Under these circumstances it would be idle to expend any large sums of money, if war was probable, in fortifying our harbors or roadsteads. It is hardly possible to conceive of such a state of things to occur when we should not command the lakes absolutely. But to keep this ascendency the states bordering on the lakes should have large arsenals or depots of ammunition ready for instant use. If we had rifled cannon we could fit out a hundred gun-boats, which would command every harbor in the lakes in thirty days. We have the small steamers, but we have not the guns, the shot, the shell and other ammunition necessary to use the vessels to the best advantage."

Another very well known newspaper said: "We can only hope that those at the head of the government may be equal to the emergency and that they will maintain the honor of the nation at whatever sacrifice." [1]

On December 12, the Cincinnati Gazette discussed the probabilities of a war with England and the true motive of that country for engaging in a contest with the United States: "National consciences are easily bent to suit their own interests. The possessions and the wars of England in every part of the world show this virtue in her to an eminent degree. She is now suffering great distress from our war, and has apprehensions of greater, as the winter advances. Therefore she supposes she has nothing additional to suffer by a war, and that by opening a market for her goods, and releasing the cotton supply, she will have immediate relief

[1] Indianapolis Sentinel, Dec. 7, 1861.

and a return to prosperity: while with her immense fleet she believes the job will be an easy one, and will not cause her any great additional expense. England believes it her interest to interfere, and her interest is her most reliable motive, as it is of all nations."

On December 19, John W. Forney, who was, at that time, one of the best informed newspaper correspondents in the United States, discussed the situation in a contribution to the Philadelphia Press. He said: "England knows she is strong. This is our hour of weakness and she may make it her opportunity to strike. She can now be arrogant and insulting, for now her arrogance and insult can not be resented. The northern coast is exposed to her large and powerful navy; our towns are not fortified, and she may bring desolation upon our people and our manufacturing interests. All this she knows. Her armaments are large and well appointed; her army has been increased almost to a war footing; she is prepared to throw large bodies of troops into the eastern and northern portion of our republic; Canada is filled with armed men, and the frontiers of Canada are simply so many garrisons. Our commerce is at her mercy. In the Mexican gulf there is a large British fleet, which could render our newly gained strongholds on the southern coast untenable, and accomplish the destruction of the brave men at Port Royal, Hatteras and Santa Rosa Island. She may break our blockade and entirely nullify our expeditionary operations. With the Potomac virtually blockaded, and an immense army under Beauregard in our rear, Washington would probably fall. With the Chesapeake Bay open to any navy that may choose to enter; with a disloyal population in

Maryland, with enemies along the Virginia and Atlantic coasts, England could precipitate a fearful series of disasters, and, perhaps, with the aid of the southern armies, turn the bloody tide of war upon the northern states.

"It may be in view of all these grave considerations, and the sad necessities of the case, that in order to avoid a war which could only end in our discomfiture, the administration may be compelled to concede the demands of England, and, perhaps, release Messrs. Mason and Slidell. God forbid, but in a crisis like this we must adapt ourselves to stern circumstances and yield every feeling of pride to maintain our existence. If this contingency should ever arrive—and I am only speculating upon a disagreeable possibility—then let us swear—not only to ourselves, but to our children who come after us—to repay this greedy and insolent power with the retribution of a just and fearful vengeance. If England, in our time of distress, makes herself our foe, and offers to become our assassin, we will treat her as a foe when we can do so untrammeled and unmenaced by another enemy."

Mr. Seward evidently did not take so gloomy a view of the situation. About a month later, in a private letter in which was discussed the probability of English interference, he gave it as his opinion that "whatever nation makes war against us, or forces itself into a war, will find out that we can and shall suppress rebellion and defeat invaders besides. The courage and determination of the American people are aroused for any needful effort—any national sacrifices." [1]

[1] Life of Thurlow Weed, Vol. II, p. 410.

News of the English demand and its consideration at Washington was quickly received throughout the South where it caused great rejoicing. The southern newspapers of December 21 are filled with expressions of delight at the prospect of a war between England and the United States. In the South it was believed that such a war would overcome the power of the Federal navy, bring upon the North and easily secure the independence of the Southern Confederacy. Virginia orators proclaimed at Richmond "that the key of the blockade had been lost in the trough of the Atlantic." [1] It was said by southern leaders that the only condition of war was that the North should maintain the position already assumed. Governor Letcher, of Virginia, seems to have exhibited much enthusiasm, for he said in a public address that his own nightly prayers were offered to God that upon this occasion "Lincoln's backbone might not give way."

Still an ominous silence prevailed at Washington. "The leading statesmen, senators and members of congress, clergymen and delegates from peace societies, newspaper reporters, speculators in the funds and many other lesser men, openly or surreptitiously, worked heaven and earth to ascertain the intentions of the president, but in vain. Lincoln and Seward smiled calmly at the questioners and evaded a reply." [2]

To one inquirer who seemed unusually anxious Mr. Lincoln replied by telling a story. "Your question reminds me," said he, "of an incident which occurred out west. Two roughs were playing cards for high

[1] Pollard, p. 196.

[2] Tuckerman, Magazine American History, June, 1886.

stakes, when one of them, suspecting his adversary of foul play, straightway drew his bowie-knife from his belt and pinned the hand of the other player upon the table, exclaiming: 'If you haven't got the ace of spades under your palm, I'll apologize.'" [1]

To persons who expressed a fear that public sentiment might become so strongly in favor of war that that course would have to be determined upon, and that such a proceeding would be fatal to the country, Mr. Lincoln replied by telling a characteristic story. He said: "My father had a neighbor from whom he was only separated by a fence. On each side of that fence there were two savage dogs, who kept running backward and forward along the barrier all day, barking and snapping at each other. One day they came to a large opening recently made in the fence. Perhaps you think they took advantage of this to devour each other? Not at all; scarcely had they seen the gap, when they both ran back, each with their tails between their legs. These two dogs are fair representatives of America and England." [2]

The language of Earl Russell's demand and Lord Lyons's manner of presenting it were in themselves sufficiently courteous. This feature of it would be worthy of commendation, if there were nothing else to be considered in connection with it. The United States government was to be allowed no opportunity for a full statement of the facts or to present its own views of the right to make the capture. Behind the demand was the instruction to Lord Lyons to leave Washington within a

[1] Magazine of American History, June, 1886.

[2] Comte de Paris, Civil War in America, pp. 470–1.

week in the event of the failure of the Federal government to comply with the British terms; there were the extensive preparations in England for war; there was the hurrying of several thousand troops into Canada and the hasty fortification of the frontier of that province, and lastly the evasive answer Lord Lyons should return, if he were asked what would be the consequences of a refusal to surrender the prisoners. These things all foretold with unmistakable clearness what the consequence would be, if any attempt were made by the United States to maintain the seizure on the principles of international law as determined even by British precedents and practice. It meant simply instant war—a struggle in which England would be actuated by motives of selfish policy in a much greater degree than by the principle that she was pretending to uphold and defend. The weavers of Lancashire at that time were beginning to suffer from a cotton famine, and there was much impatience from that quarter on account of the continuance of the civil war in America. It was a struggle in which England had everything to gain so far as her industrial and material interests were concerned, for it meant an abundant supply of cotton for Lancashire and the addition of millions of customers to British markets with all the advantages which that would confer. To the United States, on the other hand, such a war meant the loss of everything—the transfer of the Federal armies to the northern frontier, the raising of the blockade, the ravaging of unprotected coasts, the bombardment and blockade of sea coast cities, a probable invasion of the northern states by British troops from Canada, and last but not least an alliance between Eng-

land and the Confederacy—a move which would probably result in establishing the independence of the latter and the permanent disseverance of the Union. It was necessary to bear all of these things in mind while considering the British demand.

Mr. Seward evidently did not expect England to take such a serious stand in regard to the matter. It had been his belief that the British government would not want the prisoners.[1] He said on a later occasion that Lord Lyons's communication was "our first knowledge that the British government proposed to make it a question of insult and so of war."[2]

Nothing is known of the first private conferences between Secretary Seward and the president concerning this matter. It is more than probable, however, in the light of subsequent events, that Mr. Lincoln foresaw the inevitable at once and hoped only for some method of escape from the difficulty, without dishonor to the country or loss of any indirect advantage to the United States which might result from a compliance with the British demand. He saw, too, the necessity of making the compliance in such a way that it would be as agreeable as possible to public opinion throughout the country, which was decidedly opposed to the surrender of the commissioners. A cabinet meeting was appointed for December 24, at which it was expected to consider the demand for the surrender of Messrs. Mason and Slidell. The date of this meeting was afterward postponed, on account of urgent domestic affairs, until December 25. It is to be presumed that Mr. Lincoln gave the

[1] Welles's Lincoln and Seward, p. 186.

[2] Seward to Weed, March 7, 1862.

matter much earnest consideration during the interval. He prepared an experimental draft of a dispatch in answer to the one which had been submitted by Lord Lyons. In his proposed answer Mr. Lincoln acknowledged the receipt of his lordship's dispatch, and said that redress would be due and cheerfully made to England, if the facts as stated in the British demand were all that bore upon the case. But such, he said, was not the case; the British side of the matter only had been presented and the record was incomplete. An unwillingness to express an opinion was then asserted, inasmuch as the Federal government had no assurance that its views would be heard or considered by her majesty's government. It was then stated that no insult to the British flag had been intended, neither was it desired to force any embarrassing question into discussion. Both of these facts were evident, it was stated, because the seizure had been made without any instructions whatever from the United States government. The difficulty incident to a complete undoing of Captain Wilkes's act, unless it were wrong or very questionable, was then mentioned and an inquiry made as to whether the British government would consider the American side of the question, including the fact of existing insurrection in the United States; the neutral attitude of England toward the belligerents; the American citizenship and the traitorous mission of the captured persons; the British captain's knowledge of these things when the commissioners embarked at Havana; the place where the capture was made, and the bearing of international law and precedent upon the case. It was then stated that, if the foregoing facts together with any others per-

tinent to either side of the case could be submitted, the Federal government would, if England were willing, cheerfully submit the whole affair to a peaceable arbitration and would abide the result. The last paragraph of the proposed dispatch provided that no redress should exceed in kind and amount that which was already demanded and that the award should constitute the basis of a rule for the determination of similar cases between the two nations in future.

When the cabinet meeting to consider the matter was finally held Mr. Lincoln's proposed dispatch was not discussed, neither was any similar proceeding urged. More than half of the days of grace had elapsed and something must be done quickly else a foreign war would be added to the domestic one. However desirable arbitration may have been it was precluded by the nature of the demand of England.

The principal discussion seems to have been devoted to a proposed dispatch of Secretary Seward by the terms of which the commissioners were to be surrendered. There may have been some miscellaneous talk and a discussion of current rumors. Senator Sumner, chairman of the senate committee on foreign relations, was invited in. One day was not found sufficient for the consideration of this important matter, and the session was therefore continued on the following day. Mr. Seward's proposed dispatch upon which the surrender was based could not be fully discussed at one session, as the paper appears to have been prepared solely by the secretary of state without the assistance of either Mr. Lincoln or any of his cabinet officers. Of the debate and the various opinions, we have some record in the

subsequent writings of the different persons who were present.

From the published extracts taken from the diary of Attorney-General Bates, it appears that there was a full and frank discussion of the paper of Mr. Seward. All of the members of the cabinet were impressed with the extraordinary gravity of the situation as probably the fate of the nation depended on the result of their deliberations. Mr. Bates himself urged the surrender. Waiving the legal right about which there was much doubt, he favored compliance with the British demand on account of the necessity of the case. The country could not afford to have a war with England, he thought, as that would be to give up hope of subduing the insurrection; it would ruin trade, bankrupt the treasury, and bring other calamities. President Lincoln and the other members were slow to acknowledge these truths.

Mr. Welles has said: "The president was from the first willing to make concession. Mr. Blair advocated it. Mr. Seward was at the beginning opposed to any idea of concession which involved giving up the emissaries, but yielded at once and with dexterity to the peremptory demand of Great Britain."[1] In another place Mr. Welles says: "Mr. Seward should receive credit for the dexterous and skillful dispatch which he prepared on his change of position. It exhibits his readiness and peculiar tact and talent to extricate himself from and to pass over difficulties."[2]

In private correspondence Mr. Seward afterward said of the matter: "The consideration of the Trent case

[1] Lincoln and Seward by Gideon Welles, 1, p. 188.
[2] Ibid, p. 185.

was crowded out by pressing domestic affairs until Christmas day. It was considered on my presentation of it on the 25th and 26th of December. The government when it took the subject up had no idea of the grounds upon which it would explain its action nor did it believe that it would concede the case. Yet it was heartily unanimous in the actual result after two days examination in favor of the release. Remember that in a council like ours there are some strong wills to be reconciled."[1]

Secretary Chase recorded his own opinion as he gave it in the discussion. He thought it was too much for the English government to expect of the United States on that occasion, and that she ought to overlook the little wrong. He believed that Great Britain did not fully understand all of the circumstances as did the United States, and if she did, the surrender of the commissioners would not be expected. If the conditions were reversed the Federal government would accept the explanations of the English government, and allow their rebels to be retained, and he could not help believing that Great Britain would do likewise were the case fully understood. He continued to discuss the subject as follows: "But we can not afford delays. While the matter hangs in uncertainty the public mind will remain disquieted, our commerce will suffer serious harm, our action against the rebels must be greatly hindered, and the restoration of our prosperity—largely identified with that of all nations—must be delayed. Better, then, to make now the sacrifice of feeling involved in the surrender of these rebels, than even avoid it by the delays

[1] Seward to Weed, Life of Thurlow Weed, Vol. II, p. 409.

which explanations must occasion. I give my adhesion, therefore, to the conclusion at which the secretary of state has arrived. It is gall and wormwood to me. Rather than consent to the liberation of these men I would rather sacrifice everything I possess. But I am consoled by the reflection that, while nothing but severest retribution is due to them, the surrender, under existing circumstances, is but simply doing right—simply proving faithful to our own ideas and traditions under strong temptations to violate them—simply giving to England and the world the most signal proof that the American nation will not under any circumstances, for the sake of inflicting just punishment on rebels, commit even a technical wrong against neutrals."[1]

The main reason for hesitation was doubtless the fear of public opinion in the North. It was certain that a surrender of the commissioners would bring the displeasure of the people upon the government, which would be accused of having timidly submitted to the unjust demands of England. Statesmen greatly dislike to act under what appears to be menace or dictation from a foreign power. The cabinet discussion ended, however, as has been stated already by two of the members, in a unanimous agreement upon the letter of reply which the secretary of state had prepared. This communication proposed a surrender upon diplomatic reasons which were apparently a triumph of the American principle.

[1] Warden's Life of Chase, pp. 393–394.

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CHAPTER XV.

VIEWS OF OTHER EUROPEAN NATIONS CONCERNING THE TRENT CASE.

THE forcible seizure of the Confederate commissioners while on board the Trent caused more or less of discussion throughout Europe. The technical right of Captain Wilkes to make the capture was not admitted. Neutral governments regarded it as prejudicial to their own interests. It was held that such an act tended toward an abridgment of the rights and privileges which had been previously enjoyed by the neutral flag. Many of the European governments took occasion to make public their views concerning the matter, and to express the hope that the government at Washington would not insist upon maintaining the right to seize even its own rebellious citizens on board a neutral ship. Such a proceeding, it was said, did not conform to the principles of international law, and was not consistent even with American precedents and practice.

Many of the United States ministers in Europe sent reports to Washington concerning the feeling in the various capitals to which they were respectively accredited.

Three of the principal European powers communicated their views of the matter to the United States gov-

ernment. This was done in the usual courteous language of diplomacy and through the medium of their respective ministers at Washington. In a dispatch to M. Mercier, M. Thouvenel, the French minister for foreign affairs, communicated his opinion as follows:

"PARIS, December 3, 1861.

"SIR—The arrest of Messrs. Mason and Slidell on board the English mail packet Trent by an American cruiser has produced in France, if not the same emotion as in England, at least a profound astonishment and sensation. Public opinion was immediately occupied with the legality and the consequences of such an act, and the impression which has been thereby produced has not been for an instant doubtful. The act seemed to the public to be so entirely at variance with the ordinary rules of international law that it has determined to throw the responsibility exclusively on the commander of the San Jacinto. We are not yet in a position to know if this supposition is well founded, and the government of the emperor have been therefore compelled to examine the question raised by the removal of the two passengers from the Trent. The desire to aid in preventing a conflict, perhaps imminent, between the powers towards whom they are animated by equally friendly sentiments, and the desire to maintain, with a view to placing the rights of their own flag beyond the danger of any attack, certain priciples essential to the security of neutrals, have convinced them, after mature reflection, that they could not remain perfectly silent on the matter.

"If, to our great regret, the cabinet at Washington

should be disposed to approve the conduct of the commander of the San Jacinto, it would be because they consider Messrs. Mason and Slidell as enemies, or because they only recognize them as rebels. In the one case as in the other there would be an extremely painful forgetfulness of principles on which we have always found the United States agree with us.

"On what ground can the American cruiser, in the first case, have arrested Messrs. Mason and Slidell? The United States have admitted, with us, in the treaties concluded between the two countries, that the freedom of the flag extends to persons found on board, even were they enemies of one of the two parties, except, at least, in the case of military men actually in the service of the enemy. Messrs. Mason and Slidell were, by virture of this principle, the insertion of which in our treaties of amity and commerce has never encountered any difficulty, perfectly free under the neutral flag of England. It will not, doubtless, be pretended that they could be considered as contraband of war. That which constitutes contraband of war has not yet, it is true, been precisely determined. Its limits are not absolutely the same with all the powers. But, as far as regards persons, the special stipulations which are found in treaties concerning military men clearly define the character of those who may be seized by belligerents. Now there is no occasion to demonstrate that Messrs. Mason and Slidell can not be assimilated to persons in this category. There would therefore remain nothing to explain their capture but this pretext—that they were bearers of official dispatches of the enemy. Now this is the place to recall a circumstance which should gov-

ern this entire affair, and which renders unjustifiable the conduct of the American cruiser. The Trent was not bound to a point belonging to either of the belligerents. She was carrying her cargo and passengers to a neutral country, and it was, moreover, in a neutral port where she had embarked them. If it was admissible that, under such circumstances, the neutral flag did not completely cover the persons and goods on board, its immunity would be an empty word. At any moment the commerce and navigation of third powers would be liable to suffer in their innocent or even indirect relations with one or other of the belligerents. These latter would not have the right to require from the neutral a complete impartiality—to prohibit him from all participation in acts of hostility; they would impose upon his liberty of commerce and navigation restrictions of which modern international law has refused to admit the legality. In a word, we should return to those vexatious practices against which, in former times, no power has protested more energetically than the United States.

"If the cabinet at Washington could only regard the two persons arrested as rebels, whom they have always a right to seize, the question, to place it in another light, could not thereby be solved any the more in a sense favorable to the conduct of the commander of the San Jacinto.

"In such a case there would be a non-recognition of the principle which constitutes a ship to be a portion of the territory of the country whose flag she bears, and there would be a violation of the immunity which forbids a foreign sovereign to exercise there his jurisdiction. It is not necessary, doubtless, to recall the energy

with which on every occasion the government of the United States have defended this immunity, and the right of asylum, which is a consequence of it.

"Without wishing to enter into a deeper discussion of questions raised by the capture of Messrs. Mason and Slidell, I have said enough, I think, to establish that the cabinet of Washington can not, without aiming a blow at those principles which all neutral powers are equally interested in maintaining, nor without putting itself in contradiction with its own conduct up to the present day, give its approval to the proceedings of the commander of the San Jacinto.

"In this state of things, there can not be, in our opinion, any hesitation as to the course to pursue. Lord Lyons is already instructed to present the demands for satisfaction which the English government is under the necessity of drawing up, and which consist in the immediate release of the persons taken from on board the Trent, and in sending explanations calculated to remove from this act its offensive character to the British flag.

"The Federal government would be inspired by a just and elevated sentiment in yielding to these demands. One would vainly search for what object or in what interest they would risk to provoke, by a different attitude, a rupture with Great Britain. For ourselves, who would see in this case a complication, in every way deplorable, of the difficulties with which the cabinet at Washington has already to struggle against, and a precedent of a nature to render seriously uneasy all those powers not parties to the present contest, we think we are giving a proof of loyal amity towards the cabinet of Washington in not allowing them to be ignorant of our opin-

ion in this circumstance. I invite you, sir, to take the first opportunity of speaking frankly to Mr. Seward, and if he should ask it, to leave with him a copy of this dispatch. Receive, etc., THOUVENEL."

This dispatch was submitted to the president, but it had been previously decided to give up the commissioners. After stating this fact in his answer to the French dispatch, Mr. Seward said: "That disposition of the subject, as I think, renders unnecessary any discussion of it, in reply to the comments of Mr. Thouvenel. I am permitted, however, to say that Mr. Thouvenel has not been in error in supposing, first, that the government of the United States has not acted in any spirit of disregard of the rights or of the sensibilities of the British nation, and that he is equally just in assuming that the United States would consistently vindicate, by their practice on this occasion, the character they have so long maintained as an advocate of the most liberal principles concerning the rights of neutral states in maritime war.

"You will assure Mr. Thouvenel that this government appreciates as well the frankness of his explanations, as the spirit of friendship and good will towards the United States in which they are expressed."

Exception may be taken to some of the things said by M. Thouvenel in this letter. He expressed the opinion that Messrs. Mason and Slidell were "perfectly free under the neutral flag of England," and referred to the treaties between the United States and France, which provided that persons, though enemies to either or both countries, should not be taken from a free ship. The

treaties referred to had expired and were, consequently, of no effect. If they had been in full force, however, they could have determined nothing definitely in the settlement of a maritime question between the United States and England. The analogy only, in such a case, would be of any value.

M. Thouvenel also held that in this case "there would be a non-recognition of the principle which constitutes a ship to be a portion of the territory of the country whose flag she bears." This doctrine is not sound. Neutral territory can not be seized and condemned because offenses against the rights of neutrals are practiced upon it. If a ship were simply a bit of neutral territory it could not be seized and condemned for carrying contraband of war or otherwise offending against neutral rights. The law of nations, however, permits capture and confiscation of a vessel for such offenses. If M. Thouvenel's doctrine be admitted, who can tell what this small portion of neutral territory, protected by its own flag, might not do?

The views of the Austrian government were duly submitted in the following dispatch to its representative at Washington.

"VIENNA, December 18, 1861.
(Confidential.)

"The difference which has occurred between the government of the United States and that of Great Britain in consequence of the arrest of Messrs. Slidell and Mason, effected by the captain of the American ship of war, the San Jacinto, on board the English packet, the Trent, has not failed to attract the most serious attention of the

imperial cabinet. The more importance we attach to the preservation of good relations between the United States and England the more must we regret an accident which has complicated in such a grave manner a situation already surrounded with difficulties.

"Without having any intention of entering here into an examination of the question of right, we can not, however, overlook the fact that according to the notions of international law adopted by all the powers, and which the American government itself has often taken as the rule of its conduct, England could not by any means refrain in the present case from making a representation against the attack made on its flag, and from demanding a just reparation for it. It appears to us, moreover, that the demands drawn up for this purpose by the cabinet of St. James have nothing in them hurtful to the feelings of the cabinet of Washington, and that the latter will be able to do an act of equity and moderation without the least sacrifice of its dignity.

"We think that we can hope that the government of the United States, in taking counsel both from the rules which govern international relations, as well as from considerations of enlightened policy rather than from the manifestations produced by an over-excitement of national feeling, will bring to bear on its deliberation all the calmness which the gravity of the case requires, and will think it right to decide on a course which, while preserving from rupture the relations between two great states to which Austria is equally bound in friendship, will tend to avert the grave disturbances which the eventuality of a war could not fail to bring about, not only

upon each one of the contending parties, but upon the affairs of the world in general.

"Be so good, M. le Chevalier, as to bring the preceding reflections to the notice of Mr. Seward, and to inform us of the manner in which the minister shall have received your communication. Receive, etc.,

"RECHBERG."

This dispatch having been submitted to the president, a brief answer was prepared by Mr. Seward as soon as a settlement of the matter had been effected with Great Britain. A copy of the correspondence which had passed between the United States government and those of Great Britain and France, concerning the detention of the Trent, and the capture of the Confederate commissioners, was also forwarded to the Austrian government with the statement that important facts would be learned from them as follows:

"First. That the United States are not only incapable, for a moment, of seeking to disturb the peace of the world, but are deliberate, just and friendly in their intercourse with all foreign nations.

"Secondly. That they will not be unfaithful to their traditions and policy, as an advocate of the broadest liberality in the application of the principle of international law to the conduct of maritime warfare.

"The United States, faithful to their sentiments, and at the same time careful of their political constitution, will sincerely rejoice if the occasion which has given rise to this correspondence shall be improved so as to obtain a revision of the law of nations, which will

render more definite and certain the rights and obligations of states in time of war."

Assurances were also expressed that the president highly appreciated the frankness and sincerity of the Austrian government on an occasion of such great interest to the welfare of the United States.

In about a month after the reception of the news of the capture of the Confederate commissioners, the Prussian government expressed its views in the following dispatch to its minister at Washington:

"BERLIN, December 25, 1861.

"M. LE BARON—The maritime operations undertaken by President Lincoln against the southern seceding states could not, from their very commencement, but fill the king's government with apprehension lest they should result in possible prejudice to the legitimate interests of neutral powers.

"These apprehensions have unfortunately proved fully justified by the forcible seizure on board the neutral mail packet the Trent, and the abduction therefrom of Messrs. Slidell and Mason by the commander of the United States man-of-war the San Jacinto.

"This occurrence, as you can well imagine, has produced in England and throughout Europe the most profound sensation, and thrown, not cabinets only, but also public opinion into a state of the most excited expectation. For, although at present it is England only which is immediately concerned in the matter, yet, on the other hand, it is one of the most important and universally recognized rights of the neutral flag which has been called into question.

"I need not here enter into a discussion of the legal side of the question. Public opinion in Europe has, with singular unanimity, pronounced in the most positive manner for the injured party. As far as we are concerned we have hitherto abstained from expressing ourselves to you upon the subject, because in the absence of any reliable information we were in doubt as to whether the captain of the San Jacinto, in the course taken by him, had been acting under orders from his government or not. Even now we prefer to assume that the latter was the case. Should the former supposition, however, turn out to be the correct one, we should consider ourselves under the necessity of attributing greater importance to the occurrence, and to our great regret we should find ourselves constrained to see in it not an isolated fact, but a public menace offered to the existing rights of all neutrals.

"We have as yet no certain information as to the demands made by England to the American cabinet, upon the acceptance of which the maintenance of peace appears to depend. As far, however, as our information reaches on the subject, we are convinced that no conditions have been put forward by the British government which could justly offend President Lincoln's sense of honor.

"His majesty, the king, filled with the most ardent wishes for the welfare of the United States of North America, has commanded me to advocate the cause of peace with President Lincoln, through your instrumentality, to the utmost of my power. We should reckon ourselves fortunate if we could in this wise succeed in facilitating the peaceful solution of a conflict from which

the greatest dangers might arise. It is possible, however, that the president has already taken his decision and announced it. Whatever that decision may be, the king's government, when they reflect upon the uninterrupted relations of friendship and amity which have existed between Prussia and the United States ever since the latter was founded, will derive satisfaction from the thought of having laid with the most unreserved candor their views of this occurrence before the cabinet at Washington, and expressed the wishes which they entertain in connection with it.

"You will read this dispatch without delay to the secretary of state for foreign affairs, and, should he desire it, you will give him a copy of it. I shall await your report upon the instructions contained in this dispatch, and I avail, etc., BERNSTORFF."

The publication of the opinions of other European governments caused the expression of much gratification in England. There appeared to be so much harmony of sentiment throughout Europe upon this matter that the confidence of the British ministry was much increased in the position which it had at first assumed. It endured with the greatest patience the severe criticism upon the past policy of Great Britain relating to the rights of neutrals. The cabinet probably thought that a substantial advantage would be gained to England in the immediate dispute which was under consideration, and hence it was easier to bear censure for past misconduct. In a discussion of the matter one of the English reviews said: "The whole of Europe has pronounced that we were right."[1]

[1] London Quarterly Review, No. 221, p. 273.

A brief consideration of the matter, however, is sufficient to show that it was not sentiments of unfriendliness toward the United States which prompted the other nations of Europe so quickly to disapprove the the act of Captain Wilkes, and urge the Federal government to concede the British demand to surrender the commissioners. For a century the tendency of Great Britain had been toward a restriction of the rights of neutrals to the narrowest possible limits. When an act of doubtful legality was performed on the deck of an English cruiser by an American captain, it was with the greatest satisfaction that the nations on the continent of Europe saw England disavow her own former precedents bearing upon this case, and plant herself squarely upon the doctrine of enlarged neutral rights. The view of the other countries was that it was a most fortunate opportunity for securing new and enlarged modifications of the law of nations such as would restrain England in future from a policy that was disagreeable to themselves. It was their own interests which they were seeking to promote, not those of England. The concession of the British demand by the Federal government would establish a principle of maritime law which would be of value to the world in all future time. This was the motive which induced the other nations to assume the position that was common to all of them.

One of the most devoted European friends of the United States at that time was Count Agenor De Gasparin of France.[1] He says in his discussion of the views of other nations concerning the matter: "On

[1] See his "L'Amérique devant l'Europe." Chapter on the Trent case.

seeing such haste and so haughty a proclamation of indisputable exigence, on seeing the idea of an impious war accepted with so much readiness by some, and so much ill-dissembled joy by others, Europe declared without circumlocution or reserve that if England were not miraculously rescued from her own enterprise, if she drew the sword against the North in the capacity of an ally of the South, she would destroy with her own hands her chief claim to the respect of the civilized world. The language on this point was the same at Paris, Berlin, St. Petersburg, Vienna and Turin. As they were unanimous in deciding the technical question of right against America, so were they unanimous in deciding the moral question against England. To recognize the technical right in favor of England, was to recognize the right of neutrals against her. Who is simple enough to be astonished at the eagerness displayed here by the other powers?"

It is worthy of special notice that, during the entire period of the American civil war, the most powerful ruler in all Europe was an outspoken and steadfast friend of the United States. If a war had occurred between England and the northern states of America as a result of the affair of the Trent, it is well-nigh certain that the Federal government would have had a powerful ally in the czar, Alexander of Russia, who, doubtless, remembered the losses he had recently sustained in the Crimean war. In this war England had been his most powerful enemy. In a few weeks after the capture of the Confederate commissioners, a fleet of Russian war vessels appeared in New York harbor and remained there for several months. At the same time a number of Russian men-

of-war were stationed at San Francisco. No official explanation was ever given for the long-continued presence of these war vessels in American waters. Their extended visit caused much comment, but their purpose was easily divined and their presence was not unwelcome while a war between England and the northern states was imminent.

While at the Astor House, in New York, Admiral Farragut was visited by the Russian admiral, with whom he had formerly become well acquainted. On being asked why he was spending the winter in idleness in an American harbor the Russian replied: "I am here under sealed orders, to be broken only in a contingency which has not yet occurred." He also added that the commander of the Russian men-of-war lying off San Francisco harbor had received similar orders. In the same interview he admitted that his orders were to break the seals, if, while he remained at New York, the United States became involved in a war with any foreign nation.

Soon afterward, when Secretary Seward asked the Russian minister why the czar kept his war vessels so long in American harbors, he replied that, while he did not know the exact nature of the orders under which the commanders of the fleets were acting, he felt at liberty to say that it was no unfriendly purpose which caused the prolonged stay of these men-of-war in the waters of the United States.

It seems that when official knowledge was conveyed to the czar that England was making preparations for war with the United States on account of the detention

of the Trent and the seizure of the Confederate commissioners two fleets of war vessels were immediately sent to America under orders which were sealed so that the intentions of the Russian government might remain unknown to the world in the event that the services of the men-of-war should not be needed on this side of the Atlantic.

A prominent American who was in St. Petersburg at that time made an unofficial call upon the Russian chancellor, and was shown the czar's order to his admiral to report to the president of the United States for duty in case the northern states became involved in a war with England.[1]

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[1] See Thurlow Weed's account of this matter. Life of Weed. Vol. II, pp. 346–7.

CHAPTER XVI.

THE ANSWER OF THE FEDERAL GOVERNMENT.

THE president and cabinet having agreed to surrender the Confederate commissioners, Mr. Seward's letter of reply to the British demand was sent to Lord Lyons without delay. The communication was quite long, and began by making a careful and complete statement of the contents of Lord Russell's note of November 30, asking for reparation. Mr. Seward then stated that the capture was made without any direction, instruction, or even foreknowledge of the Federal government; that no orders whatever had been issued to Captain Wilkes or to any other naval officer to arrest the four persons taken from the Trent or any of them, either on that vessel or any other British or neutral ship; and that the British government would justly infer from these facts that the United States had no purpose or even thought of forcing into discussion the question that had arisen or any other which could affect the sensibilities of the British nation.

The facts concerning the boarding of the Trent as reported by Commander Williams were then reviewed by Mr. Seward and correctly stated, the fictions being all pointed out.

"I have now to remind your lordship," continued Mr. Seward, "of some facts which doubtlessly were omitted by Earl Russell, with the very proper and becoming motive of allowing them to be brought into the case, on the part of the United States, in the way most satisfactory to this government. These facts are, that at the time the transaction occurred an insurrection was existing in the United States which this government was engaged in suppressing by the employment of land and naval forces; that in regard to this domestic strife the United States considered Great Britain as a friendly power, while she had assumed for herself the attitude of a neutral; and that Spain was considered in the same light, and had assumed the same attitude as Great Britain.

"It had been settled by correspondence that the United States and Great Britain mutually recognized as applicable to this local strife these two articles of the declaration made by the congress of Paris in 1856, namely, that the neutral or friendly flag should cover enemy's goods not contraband of war, and that neutral goods not contraband of war are not liable to capture under an enemy's flag. These exceptions of contraband from favor were a negative acceptance by the parties of the rule hitherto everywhere recognized as a part of the law of nations, that whatever is contraband is liable to capture and confiscation in all cases."

The character and purposes of the persons seized were then carefully explained, and the statement made that it was to be presumed that the commissioners bore dispatches which it appeared from information sent by the American consul at Paris had escaped the search

of the Trent and reached England in safety. Mr. Seward also stated, upon information and belief, that the agent and officers of the Trent, including Commander Williams, before leaving Havana knew that Messrs. Mason and Slidell were commissioners from the Confederate States on their way to Europe.

From the foregoing facts Mr. Seward arrived at the conclusion that the case was not an act of violence or outrage but only an ordinary and legal belligerent proceeding against a neutral vessel carrying contraband of war for the use and benefit of the insurgents; that the question was whether this had been done in accordance with the law of nations; and that the following inquiries were involved:

"1. Were the persons named and their supposed dispatches contraband of war?

"2. Might Captain Wilkes lawfully stop and search the Trent for these contraband persons and dispatches?

"3. Did he exercise that right in a lawful and proper manner?

"4. Having found the contraband persons on board and in presumed possession of the contraband dispatches, had he a right to capture the persons?

"5. Did he exercise that right of capture in the manner allowed and recognized by the law of nations?"

It was then stated that if these questions should be answered in the affirmative, the British government would have no claim for reparation. The first four were argued briefly by the secretary and an affirmative conclusion reached in the case of each one. The difficulties began with the fifth question. Maritime law is sufficiently clear as to the disposition to be made of cap-

tured contraband vessels and property, but it says nothing concerning the mode of procedure in regard to contraband persons. "The belligerent captor," said Mr. Seward, "has a right to prevent the contraband officer, soldier, sailor, minister, messenger or courier from proceeding in his unlawful voyage and reaching the destined scene of his injurious service. But, on the other hand, the person captured may be innocent—that is, he may not be contraband. He, therefore, has a right to a fair trial of the accusation against him. The neutral state that has taken him under its flag is bound to protect him if he is not contraband, and is therefore entitled to be satisfied upon that important question. The faith of that state is pledged to his safety, if innocent, as its justice is pledged to his surrender if he is really contraband. Here are conflicting claims, involving personal liberty, life, honor, and duty. Here are conflicting national claims involving welfare, safety, honor, and empire. They require a tribunal and a trial. The captors and the captured are equals; the neutral and the belligerent states are equals."

It was then stated that the American government had early suggested that such controversies be settled by proper judicial proceedings. If the suspected persons were proved to be contraband, the vessel would also partake of that character. If the men were not contraband, the vessel would escape condemnation. Although there would be no judgment for or against the captured persons, yet a legal certainty concerning their character would result from the determination of the court concerning the vessel.

Objections were then pointed out even to this course

of proceeding, the chief of which was that such a judgment concludes nothing, for it binds neither the belligerent nor the neutral upon the question of the disposition to be made of the captured persons. Such a question would still have to be really determined by diplomacy or by war. Regret was expressed that maritime systems of law furnished no better processes of determining the characters of contraband persons, and the statement made that is was practically then a choice between the illogical and circuitous methods already suggested and no judicial remedy at all.

"If there be no judicial remedy," said Mr. Seward, "the result is that the question must be determined by the captor himself, on the deck of the prize vessel. Very grave objections arise against such a course. The captor is armed, the neutral is unarmed. The captor is interested, prejudiced, and perhaps violent; the neutral, if truly neutral, is disinterested, subdued and helpless. The tribunal is irresponsible, while its judgment is carried into instant execution. The captured party is compelled to submit, though bound by no legal, moral, or treaty obligation to acquiesce. Reparation is distant and problematical, and depends at last on the justice, magnanimity or weakness of the state in whose behalf and by whose authority the capture was made. Out of these disputes reprisals and wars necessarily arise, and these are so frequent and destructive that it may well be doubted whether this form of remedy is not a greater social evil than all that could follow if the belligerent right of search were universally renounced and abolished forever. But carry the case one step farther. What if the state that has made the capture unreasonably refuse

to hear the complaint of the neutral or to redress it? In that case, the very act of capture would be an act of war—of war begun without notice, and possibly entirely without provocation.

"I think all unprejudiced minds will agree that, imperfect as the existing judicial remedy may be supposed to be, it would be, as a general practice, better to follow it than to adopt the summary one of leaving the decision with the captor and relying upon diplomatic debates to review his decision. Practically, it is a question of choice between law, with its imperfections and delays, and war, with its evils and desolations."

Mr. Seward then said there were cases where the judicial remedy would become impossible as by the shipwreck of the prize vessel, or other circumstances which excuse the captor from sending her into port for confiscation. Such a case, however, would not annul the right of the captor to the custody of the contraband persons so that their unlawful purposes can not be accomplished. The captor in such a case should show that the failure of the judicial remedy resulted from circumstances entirely beyond his control and without his fault. Any other course would permit him to derive advantages from his own wrongful act.

Secretary Seward next reviewed the course of Captain Wilkes in making a prize of the Trent and capturing the contraband persons lawfully, then permitting her to continue upon her voyage instead of sending her into port for adjudication. The capture was incomplete, if the whole thing constituted a single transaction. It was unfinished or abandoned. Whether the leaving of the act unfinished was voluntary or not, was the ques-

tion which was to determine the validity of the British claim for reparation. If necessary and, therefore, involuntary, the British claim for reparation would be unfounded; if unnecessary and voluntary, then the claim was well founded.

Captain Wilkes's reasons for not carrying the Trent into port were then reviewed and carefully examined. The first reason was on account of his being so reduced in officers and crew, and the second was the great inconvenience, loss, and disappointment which would have resulted to the passengers of the vessel. So far as Captain Wilkes was concerned the reasons were satisfactory to the United States government. It could not desire that the San Jacinto should be exposed to danger and loss by reducing her officers and crew in order to put a prize crew on board the Trent and carry her into port; neither could it disavow the humane motive of preventing inconveniences, losses, and possibly disasters to the passengers who were on board the captured vessel. It manifestly did not occur to Captain Wilkes that such a course might sacrifice the right of his government to retain the captured persons, although he was not deserving of censure for anything that he had done. The question was not whether he was justified to his government, but what the view of his government was as to the effect of his course in not bringing the Trent into port.

This brought into view the question whether the release of the Trent was a voluntary or an involuntary proceeding. It would have been clearly involuntary, if made solely upon the ground that Captain Wilkes could not bring the prize vessel into port on account of

a lack of officers and crew necessary to do so. The captor is not required to hazard his own vessel in order to bring the prize vessel into port. Neither is a large prize crew necessary, for it is the duty of the captured party to assent and to go willingly before the judicial tribunal which tries the case. Should the captured party express a determination to use force which there is no reasonable probability of the captor's overcoming without too much risk to himself, he may properly leave the prize vessel to proceed on her voyage and it can not afterward be objected that she has been deprived of the judicial remedy which was her due.

Captain Wilkes's second reason was different from the first, so that the release of the Trent was voluntary and not made of necessity.

Mr. Seward's next inquiry was how these explanations by the commander of the San Jacinto were to affect the British government. His first observation was that the explanations had not been made to the authorities of the captured vessel. If they had been so made the release might have been accepted by the officers of the Trent on condition of waiving an investigation by a competent court, or such condition might have been entirely refused. But it was a case with the British government and not with the officers of the Trent. If it were claimed by Great Britain that a judicial trial had been lost because Captain Wilkes had voluntarily released the Trent, out of consideration for her innocent passengers, he did not see how Great Britain was "to be bound to acquiesce in the decision which was thus made by us without necessity on our part, and without knowledge of conditions or consent on her own. The question

between Great Britain and ourselves thus stated would be a question not of right and of law, but of favor to be conceded by her to us in return for favors shown by us to her, of the value of which favors on both sides we ourselves shall be the judge. Of course the United States could have no thought of raising such a question in any case."

That any deliberate wrong in the transaction had been meditated, practiced, or approved, was disclaimed by Mr. Seward. He said that "on the contrary what has happened has been simply an inadvertency, consisting in a departure, by the naval officer, free from any wrongful motive, from a rule uncertainly established and probably by the several parties concerned either imperfectly understood or entirely unknown. For this error the British government has a right to expect the same reparation that we, as an independent state, should expect from Great Britain or from any other friendly nation in a similar case.

"I have not been unaware that, in examining this question I have fallen into an argument for what seems to be the British side of it against my own country. But I am relieved from all embarrassment on that subject. I had hardly fallen into that line of argument when I discovered that I was really defending and maintaining not an exclusively British interest, but an old, honored and cherished American cause, not upon British authorities, but upon principles that constitute a large portion of the distinctive policy by which the United States have developed the resources of a continent, and, thus becoming a considerable maritime power, have won the respect and confidence of many nations. These principles

were laid down for us in 1804, by James Madison, when secretary of state in the administration of Thomas Jefferson in instructions given to James Monroe, our minister to England."

A quotation was then inserted from one of Mr. Madison's dispatches, in which he said that a belligerent commander is not permitted to condemn and seize, on the deck of a neutral vessel, property suspected of being contraband, but that the whole matter must be submitted to a prize court which can assess damages against the captor for an abuse of his power; hence it is unreasonable, unjust and inhuman to permit a naval officer, restricted in the case of mere property of trivial amount to decide, on the deck of his vessel without any sort of trial, the question of allegiance, and carry such decision into effect by forcing every individual he may choose into a service detestable and humiliating to the impressed seaman and dangerous even to life itself.

Satisfaction was expressed at being able to decide the case upon strictly American principles, and the statement made that the claim of the British government had not been made in a discourteous manner.

In coming to the conclusion that it was the duty of the American government to disavow Captain Wilkes's act and return the prisoners, Secretary Seward said: "If the safety of this Union required the detention of the captured persons, it would be the right and duty of this government to detain them. But the effectual check and waning proportions of the existing insurrection, as well as the comparative unimportance of the captured persons themselves, when dispassionately weighed, happily forbid me from resorting to this defense."

Attention was then called to the fact that Great Britain had often refused to yield claims like the one under consideration, and it was thought a matter of special congratulation that the British government had disavowed its former principles and was now contending for what the United States had always insisted upon.

The last paragraph of the communication read as follows: "The four persons in question are now held in military custody at Fort Warren in the state of Massachusetts. They will be cheerfully liberated. Your lordship will please indicate a time and place for receiving them."

Such was the answer of Mr. Seward—the reply of the American government conceding the British demand. Most critics pronounce it a very able state paper. This judgment is certainly correct if all things be considered. It was prepared on the briefest notice and in the fever heat of war time. It was absolutely necessary to yield to the British demand. The circumstances were such that a refusal to do this meant national ruin to the United States. Mr. Seward spoke for an administration already beset by innumerable difficulties and responsible to a people who were almost unanimously opposed to the course which the necessities of the case required the government to pursue. The work of Secretary Seward in this case was very skillfully done. His course was both politic and wise. He yielded unconditionally to the demand for the surrender of the commissioners, but, at the same time, he justified the spirit of Captain Wilkes's act and was able to place the surrender solely upon a simple mistake—an error made out of humane considerations and consequently one

which was not deserving of censure. By showing that, in making the surrender, he was guided by long cherished American principles, he forestalled the censure and objections which were certain to come from his own countrymen. But this was not all. His positions were fortified by vigorous and acute argument, much of which was apparently unanswerable.

While Mr. Seward deserves the gratitude of his countrymen for having extricated the nation from a difficulty that was very embarrassing, a careful examination shows that his letter is not entirely free from objections and inconsistencies. The entire communication bears the impress of having been prepared for the special purpose of finding diplomatic reasons for surrendering the commissioners—as it doubtless was.

After having established the right to make the capture, Mr. Seward says that the voluntary or involuntary release of the Trent by Captain Wilkes must determine the validity of the English claim for reparation. If the release were voluntary the claim was well founded; if involuntary the validity of the claim could not be admitted by the Federal government. One of Captain Wilkes's reasons for releasing the British vessel was that he could not spare a prize crew of officers and men to bring her into port—an involuntary reason of great weight. The second reason for allowing the Trent to proceed was the desire not to discommode her numerous innocent passengers—a purely voluntary proceeding on the part of Captain Wilkes. Here are two equally valid independent reasons presented for a course pursued. To accept one does not nullify the other, although it leads, by Mr. Seward's reasoning, to a different conclusion. Although

the former seems the better reason, it was discarded in the letter of reply, and the grounds for surrender based upon the latter consideration, viz: The voluntary release of the Trent in order not to cause inconvenience to her innocent passengers. This led to the conclusion that the British claim should be conceded. It is not easy to understand why the other reason might not have been accepted and an opposite conclusion reached, unless Mr. Seward desired to escape from the consequences to which his own logic would lead in that case.

It is also quite evident that Mr. Seward drew a wrong inference from the quotation made from Secretary Madison's dispatch when he interpreted it to mean that the United States would have quietly submitted to the assumed British "right of search and seizure," if the decrees of impressment had been passed upon American citizens by the prize courts of England rather than by the naval officers of that country on the decks at sea. Such a proceeding would not have made impressment any more acceptable to Americans, and the quotation from Mr. Madison's dispatch can not be properly construed to mean that it would have done so.

Mr. Seward said that the British claim for reparation was "not made in a discourteous manner." If British courtesy consisted in pushing armies into Canada to menace the United States; if it meant the fitting out of warlike armaments at home with more of haste than had been seen in such preparations for a third of a century; if it meant an order for Lord Lyons to leave Washington in one week unless the demands of the English ministry were complied with fully and completely before the expiration of that time—then, indeed, the claim was

made courteously. If all this be courtesy, then every American should hope that, in future, his country may be saved from the courtesy of such friends.

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CHAPTER XVII.

THE SURRENDER OF MASON AND SLIDELL.

MR. SEWARD'S answer conceding the British demand was very gratifying to Lord Lyons. On December 27 he acknowledged its receipt and said that he would immediately send a copy of this "important communication" to Earl Russell, and that he would at once confer with Mr. Seward concerning the necessary arrangements for the transfer of the "four gentlemen" again into British protection. It thus appears that, without waiting to hear from London, his lordship at once accepted the answer of the Federal government as a final and satisfactory solution of the difficulty. Three days after answering Mr. Seward's letter, Lord Lyons addressed a note to Commander Hewett, of the English sloop-of-war Rinaldo, directing him to proceed at once with his vessel to Provincetown, a small seaport in Massachusetts, about forty miles from Boston, and receive the released prisoners at that place. His lordship added at the same time: "It is hardly necessary that I should remind you that these gentlemen have no official character. It will be right for you to receive them with all courtesy and respect as gentlemen of distinction, but it would be improper to pay them any of those honors

which are paid to official persons." The transfer was directed to be made "unostentatiously." Having been conveyed from Fort Warren to Provincetown in the tug-boat Starlight, the prisoners and their luggage were put on board the Rinaldo on the evening of January 1, 1862. Their "only wish," they said, "was to proceed to Europe." They were conveyed without delay to the Danish port of St. Thomas, the place to which they were proceeding when taken from the Trent by Captain Wilkes. At St. Thomas they embarked for Europe and reached their respective destinations without further mishap. The capture and removal of the envoys to the United States caused a delay of about seventy days in their journey.

After the surrender had been made and the Confederate emissaries taken away, the prevalent tone throughout the North still upheld the act of Captain Wilkes. Temporary expediency was assigned as the only reason for giving up the men. The validity of the British claim was denied in many public utterances, in most of which care was taken to reserve the right of contesting the matter at a future time when the United States would be better able to do this. The outcome of the whole matter was looked upon by many public men as a national humiliation. In many instances there were expressed feelings of the bitterest indignation toward England and a purpose announced of avenging this insult so wantonly offered the United States in her hour of deepest distress.

On the afternoon of January 7 the speaker of the house of representatives laid before that body copies of the correspondence which had taken place between

the secretary of state and the British government relative to the Trent case. An extended debate followed in which there was a free expression of opinion concerning the British demand and the subsequent surrender of the commissioners.

Mr. Vallandigham, of Ohio, thought a mistake had been made in giving up the men. He said that "for the first time has the American eagle been made to cower before the British lion.

"Sir, a venal or fettered and terror-stricken press, or servile and sycophantic politicians in this house, or out of it, may applaud the act; and may fawn and flatter and lick the hand which has smitten down our honor into the dust; but the people, now or hereafter, will demand a terrible reckoning for this most unmanly surrender." [1]

Mr. Thomas, of Massachusetts, read a carefully prepared speech from manuscript. Some extracts from it are as follows:

"Complaint of the government would be useless if not groundless. It was too much to ask of it to take another war on its hands. Possibly the elaborate and ingenious argument of the secretary might have been spared. The matter was in a nut-shell; the answer in a word. Take them. There are duties lying nearer us. We can wait.

"But we are not called upon, Mr. Speaker, to say that the demand was manly or just. It was unmanly and unjust. It was a demand which, in view of her history, of the rights she had always claimed and used

[1] Mr. Vallandigham's motive was probably different from that of any other speaker on that occasion. See note, page 180.

as a belligerent power, of the principles which her greatest of jurists—Lord Stowell—had imbedded in the law of nations, England was fairly estopped to make."

Continuing his discussion Mr. Thomas said that England had "done to us a great wrong in availing herself of our moment of weakness to make a demand which, accompanied as it was by the pomp and circumstance of war, was insolent in spirit and thoroughly unjust. It was indeed courteous in language, but it was the courtesy of Joab to Amasa as he smote him in the fifth rib: 'Art thou in health, my brother?' That message of Lord Russell to Lord Lyons which could cross the Atlantic had not projectile force enough to have passed from Dover to Calais."

In conclusion he said of the course of England: "But the loss will ultimately be hers. She is treasuring up to herself wrath against the day of wrath. She has excited in the hearts of this people a deep and bitter sense of wrong, of injury inflicted at a moment when we could not respond. It is night with us now, but through the watches of the night, even, we shall be girding ourselves to strike the blow of righteous retribution."

Mr. Wright, of Pennsylvania, said: "I justify the act as I understand it is justified by the country. Public meetings were everywhere held; Captain Wilkes was everywhere received with acclaim for the act he had done; the secretary of the navy—one of the heads of the departments of this government—approved of that act. I understand the act to have been approved by the whole government. But in the meantime a state of things had arisen making it necessary to resort to expediency in this matter, to save the country from being in-

volved in a war with Europe. In that view, I would rather surrender these rebel refugees a thousand times over than to have them the cause of war. Let England take them; if she has a mind to fete and toast them, let her do it—it is none of our business; if England desires to make lions of Confederate rebels, it is a mere matter of taste. If they have to be surrendered then let them be surrendered under a protest, while we shall remember hereafter that there is a matter to be canceled between the British government and the United States of North America."

Before the close of the debate Mr. Vallandigham took the floor a second time and stated that under the circumstances he would "prefer a war with England to the humiliation which we have tamely submitted to; and I venture the assertion that such a war would have called into the field five hundred thousand men who are not now there, and never will be without it, and have developed an energy and power in the United States which no country has exhibited in modern times, except France, in her great struggle in 1793."

A few days after this debate occurred it was proposed in the house to vote $35,000 to pay the expenses of an exhibit of the United States at an international exposition which was soon to be held in London. Mr. Lovejoy, of Illinois, objected to the measure, and said that the United States had "been insulted, dishonored and disgraced by the British nation." Continuing he said: "That disgrace was all that the nation could bear. We marched up to it 'sweating great drops of blood.' We approached it as Christ went up to the cross, saying, 'if it be possible, let this cup pass from us.'"

Mr. Lovejoy then said that inasmuch as the United States had submitted to be dishonored by Great Britain he thought Americans ought to stay at home until a time should come when they would be able to whip the British nation. Then he would be willing to appear at a world's exhibition in London. He then likened his own grief to that of the suffering Trojans as related by Æneas to Queen Dido.[1] "Every time this Trent affair comes up," said he, "every time that an allusion is made to it; every time that I have to think of it, that expression of the tortured and agonized Trojan exile comes to my lips. I am made to renew the horrible grief which I suffered when the news of the surrender of Mason and Slidell came. I acknowledge it, I literally wept tears of vexation. I hate it; and I hate the British government. I have never shared in the traditional hostility of many of my countrymen against England. But I now here publicly avow and record my inextinguishable hatred of that government. I mean to cherish it while I live, and to bequeath it as a legacy to my children when I die. And if I am alive when war with England comes, as sooner or later it must, for we shall never forget this humiliation, and if I can carry a musket in that war I will carry it. I have three sons, and I mean to charge them, and do now publicly and solemnly charge them, that if they shall have at that time reached the years of manhood and strength, they shall enter into that war. I have always doubted the necessity of that surrender. We might have, I think, secured an arbitration at least, and compelled England to have recog-

[1] See the Æneid, Book II, line 3: "Infandum, regina, jubes renovare dolorem," etc.

nized some rule as binding on herself as the law of nations. This we have not secured. If, however, it was a necessity, I could have submitted to it. But I have not reached that exalted sublimation of Christianity which allows me to be insulted and abused and dishonored without feeling some indignation. * * *

"Sir, I trust in God that the time is not far distant when we shall have suppressed this rebellion, and be prepared to avenge and wipe out this insult that we have received. We will then stir up Ireland; we will appeal to the Chartists of England; we will go to the old French habitans of Canada; we will join hands with France and Russia to take away the eastern possessions of that proud empire, and will darken every jewel that glitters in her diadem. Oh! it was so mean and cowardly for a nation saying 'father' and 'mother' in the same words that we do to come into the house of a brother in the day of his calamity. I can not away with it."

On January 6 President Lincoln sent to the senate a message transmitting copies of the diplomatic correspondence relative to the Trent case. Three days later the matter was discussed in an extended speech by Mr. Sumner who ably defended the course of the United States government in surrendering the commissioners. He held that the act of Captain Wilkes could be easily vindicated by British precedents, but that it became very questionable when tried by the liberal principles which the United States had always avowed and sought to advance with regard to the sea. He said that the American government, at an early day, had adopted as its policy the principle that only officers or soldiers could

be stopped, thus positively excluding the idea of stopping ambassadors or emissaries of any kind while sailing under a neutral flag. In support of this statement Mr. Sumner reviewed American diplomatic history from the beginning so far as it touched upon this question. The doctrine of the United States was fully demonstrated by quotations from the diplomatic dispatches of Monroe and Madison, also by reference to the various treaties of the United States with foreign nations.

"If I am correct in this review," said Mr. Sumner, "then the conclusion is inevitable. The seizure of the rebel emissaries on board a neutral ship can not be justified according to our best American precedents and practice.

"Mr. President, let the rebels go. Two wicked men, ungrateful to their country, are let loose with the brand of Cain upon their foreheads. Prison doors are opened, but principles are established which will help to free other men, and to open the gates of the sea."

This speech was timely and effective. It was well received throughout the North. The newspapers commented upon it in the most favorable terms and it doubtless did much to influence public sentiment in support of the surrender.

The news that the British demand had been conceded was a disappointment to the South. "The concession of Mr. Seward was a blow to the hopes of the southern people. The contemplation of the spectacle of their enemy's humiliation in it was but little compensation for their disappointment of a European complication in the war. Indeed, the conclusion of the Trent affair gave a sharp check to the long cherished imagination of

the interference of England in the war, at least to the extent of her disputing the blockade, which had begun to tell on the war-power and general condition of the Confederacy. [1]

The Richmond Examiner, a representative Confederate newspaper, said: "Never since the humiliation of the Doge and Senate of Genoa before the footstool of Louis XIV has any nation consented to a degradation so deep. If Lincoln and Seward intended to give them up at a menace, why, their people will ask, did they ever capture the ambassadors? Why the exultant hurrah over the event that went up from nineteen million throats? Why the glorification of Wilkes? Why the cowardly insults to two unarmed gentlemen, their close imprisonment, and the bloodthirsty movements of congress in their regard? But, most of all, why did the government of Lincoln indulge a full cabinet with an unanimous resolution that, under no circumstances, should the United States surrender Messrs. Slidell and Mason? Why did they encourage the popular sentiment to a similar position? The United States government and people swore the great oath to stand on the ground they had taken; the American eagle was brought out; he screeched his loudest screech of defiance—then

'Dropt like a craven cock his conquered wing,'

at the first growl of the lion. This is the attitude of the enemy."

The Canadian press commented upon the release of Mason and Slidell in the same spirit as did other newspapers that were hostile to the United States. The

[1] Pollard's Lost Cause, p. 197.

Toronto Leader was very abusive and declared that the surrender was one of "the greatest collapses since the beginning of time." The same journal had much to say concerning the "humiliation" of the Federal government. The Montreal Gazette thought the affair was a "bitter, bitter pill for the fire-eaters to cram down their noisy throats."

In England there was, of course, much rejoicing over the outcome of the matter. The Federal government had been humbled in the eyes of the world and British arrogance had triumphed once more. The English press, including the reviews, generally sustained the course of the government as being necessary and proper. It was said that in America the unbridled passions of democracy controlled, that this force was unyielding and unreasonable, and that a display of military power and a menace of war was necessary to secure just concessions from such a country.

The Quarterly Review discussed this matter as follows: "There ought, then, to have been no difficulty nor demur in disavowing the act of Captain Wilkes, which, we are told, was not authorized by his government and of which he ostentatiously took the whole responsibility upon himself; nor any delay in releasing the prisoners. This is what we should expect from any other European power. But in America the pressure of mob opinion was brought to bear with disastrous weight upon a question the determination of which ought to have been left to the calm and dispassionate judgment of reflecting men, responsible for the character which the United States have to maintain in their relations with foreign powers."

Continuing his discussion the writer said that the Federal states "are now undeceived as to the real attitude of England. They must see that it is dangerous to try her patience too far. Her forbearance will not be again mistaken for the whispers of fear or attributed to the dictates of self-interest. We have shown that for the sake of restoring to the protection of the British flag four strangers—for whom personally we cared nothing—we were resolved to engage instantly in war." [1]

It was then said that those who assailed British honor in future would know the consequences in advance. "The lesson has been read; we hope it will be remembered," continued the writer, and whatever may now be said of conciliatory letters it must not be forgotten by ourselves that until we had evinced this determination by the dispatch of large and formidable armaments every act of the American government went to show that they fully intended to retain the prisoners." [2]

Mr. Gladstone, then a member of the English cabinet, in a public speech concerning the matter, tauntingly charged the American people with being unstable and cowardly. He said: "Let us look to the fact that they are of necessity a people subject to quick and violent action of opinion, and liable to great public excitement, intensely agreed upon the subject of the war in which they are engaged, until aroused to a high pitch of expectation by hearing that one of their vessels of war had laid hold on the commissioners of the southern states whom they regarded simply as rebels. Let us

[1] London Quarterly Review, No. 221, pp. 273–274.
[2] London Quarterly Review, No. 221, pp. 273–274.

look to the fact that in the midst of that exultation, and in a country where the principles of popular government and of democracy are carried to the extreme—that even, however, in this matter of life and death, as they think it to be—that while ebullitions were taking place all over the country, of joy and exultation at capture—that even then this popular and democratic government has, under a demand of a foreign power, written these words, for they are the closing words in the dispatch of Mr. Seward: 'The four commissioners will be cheerfully liberated.'" [1]

In the exultation over the "victory," as it was called, less notice was taken of Mason and Slidell personally. Their importance to the British nation diminished after they were surrendered. It was enough to know that, under the menace of a foreign war in addition to the domestic insurrection the United States government had yielded to a peremptory demand to surrender the prisoners, and that they had actually been restored to British protection again. The London Star said: "When Mason and Slidell have been surrendered to us it will surely be time to declare in what capacity we, as a nation, are to receive them—whether as the envoys of Mr. Jefferson Davis or as inoffensive visitors to a country where the rebel slave-owner and fugitive negro are welcome alike to the protection of the law." The Times said: "We do sincerely hope that our countrymen will not give these fellows anything in the shape of an ovation. The civility that is due to a foe in distress is all that they can claim. We have returned them good for evil, and sooth to say, we should be exceedingly sorry

[1] Speech at Edinburgh, January, 1862.

that they should ever be in a situation to choose what return they will make for the good we have now done them. They are here for their own interests, in order, if possible, to drag us into their own quarrel, and, but for the unpleasant contingencies of a prison, rather disappointed, perhaps, that their detention has not provoked a new war. When they stepped on board the Trent they did not trouble themselves with the thought of the mischief they might be doing an unoffending neutral; and if now, by any less perilous device, they could entangle us in the war, no doubt they would be only too happy. We trust there is no chance of their doing this, for, impartial as the British public is in the matter, it certainly has no prejudice in favor of slavery, which, if anything, these gentlemen represent. What they and their secretaries are to do here passes our conjecture. They are personally nothing to us. They must not suppose, because we have gone to the very verge of a great war to rescue them, that therefore they are precious in our eyes. We should have done just as much to rescue two of their own negroes; and had that been the object of the rescue, the swarthy Pompey and Cæsar would have had just the same right to triumphal arches and municipal addresses as Messrs. Mason and Slidell. So, please, British public, let's have none of these things. Let the commissioners come up quietly to town and have their say with anybody who may have time to listen to them. For our part, we can not see how anything they have to tell can turn the scale of British duty and deliberation. There have been so many cases of peoples and nations establishing an actual independence, and compelling the recognition of the world, that all we have to do is what

we have done before, up to the very last year. This is now a simple matter of precedent. Our statesmen and lawyers know quite as much on the subject as Messrs. Mason and Slidell, and are in no need of their information or advice."[1]

When the commissioners were surrendered, a portion of the British troops dispatched to Canada to menace the United States had not yet arrived. With a stroke of the wit which often characterized his dealing with his opponents, Mr. Seward proceeded to inform the British consul at Portland, Maine, that these troops would be permitted to land at that city and pass freely through the territory of the United States by rail to their destination, thus avoiding the risk and suffering incident to a passage by the Canadian route beset by the snow and ice of an inclement midwinter season.

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[1] See London Times, Jan. 11, 1862.

CHAPTER XVIII.

EARL RUSSELL'S VIEW OF THE AMERICAN POSITION.

On January 10, 1862, Lord Russell addressed a note to Lord Lyons stating that her majesty's government had carefully considered how far Mr. Seward's note and its concessions complied with the British demand. He then recited the fact that the Federal government had agreed to an unconditional surrender of the prisoners, that Captain Wilkes had acted entirely without instructions, and that the secretary of state expressly forebore to justify the act complained of. His lordship also said that if the United States government had sanctioned the unauthorized act of Captain Wilkes, it would thereby have become responsible for "the original violence and insult" offered; but that Mr. Seward had stated that what had happened had been only "an inadvertency consisting in a departure by a naval officer, free from any wrongful motive, from a rule uncertainly established, and probably by the several parties concerned either imperfectly understood or entirely unknown; and that reparation was justly due. Earl Russell said that her majesty's government had carefully taken into consideration the surrender of the prisoners, the delivery of them

again into British hands, and also the explanations of Mr. Seward—all of which constituted the desired redress. His lordship said that her majesty's government differed, however, from many of the conclusions which Mr. Seward had arrived at in his discussion of the international law points in the case, and that these differences would be fully presented in a future dispatch.

Accordingly, on January 23, 1862, Earl Russell addressed a dispatch to Lord Lyons in which the differences were fully discussed. The only ground upon which a foreign government could treat the matter, according to Lord Russell's view, was upon the supposition that the captured persons were not rebels but only enemies of the United States at war with its government, hence the discussion was to be confined solely to the principles of international law involved.

The first inquiry that arose was whether the commissioners and their supposed dispatches were contraband of war or not. "Upon this question," said his lordship, "Her majesty's government differ entirely from Mr. Seward. The general right and duty of a neutral power to maintain its own communications and friendly relations with both belligerents can not be disputed."

In support of this proposition it was held that a neutral nation has certain duties to perform toward both parties at war, that it may have most direct and material interests in the performance of such duties on both sides, and especially was this true when its citizens, resident both there and at home, have valuable property in the territories of both belligerents. Such property may be exposed to acts of violence or confiscation, if the protection of the neutral government be withheld, and this,

in his lordship's opinion, was "the case with respect to British subjects" in the civil war then existing in the United States. The opinion was expressed that a neutral had the right to maintain necessary relations with both belligerents. This being true it would follow that a neutral, carrying diplomatic persons or dispatches of one belligerent, would not be guilty of an act of hostility toward the other party at war, and that this principle applied with equal force to the diplomatic agents of an unrecognized power. Various texts and precedents were then quoted in support of the foregoing opinion, after which his lordship said: "It appears to her majesty's government to be a necessary and certain deduction from these principles that the conveyance of public agents of this character from Havana to St. Thomas, on their way to Great Britain and France, and of their credentials and dispatches (if any) on board the Trent, was not and could not be a violation of the duties of neutrality on the part of that vessel, and, both for that reason and, also, because the destination of these persons and of their dispatches was *bona fide* neutral, it is, in the judgment of her majesty's government, clear and certain that they were not contraband."

The nature of contraband of war was then explained and it was held that articles of that nature must always have a hostile and not a neutral destination. "On what just principle," said Lord Russell, "can it be contended that a hostile destination is less necessary, or a neutral destination more noxious, for constituting a contraband character in the case of public agents or dispatches than in the case of arms and ammunition?"

Mr. Seward had endeavored to sustain his own conclusion by quoting from Sir William Scott whose opinion was based upon the doctrines of Vattel. His lordship held that Mr. Seward had wrongly interpreted the quotations. Reasons were then given for a different construction, and the conclusion reached that "no writer of authority has ever suggested that an ambassador proceeding to a neutral state on board one of its merchant ships is contraband of war."

The rule deduced from the texts and precedents as explained by Earl Russell was "that you may stop an enemy's ambassador in any place of which you are yourself the master, or in any other place where you have a right to exercise acts of hostility. Your own territory, or ships of your own country, are places of which you are yourself the master. The enemy's territory or the enemy's ships are places in which you have a right to exercise acts of hostility. Neutral vessels guilty of no violation of the laws of neutrality are places where you have no right to exercise acts of hostility."

"It would be an inversion of the doctrine that ambassadors have peculiar privileges to argue that they are less protected than other men. The right conclusion is, that an ambassador sent to a neutral power is inviolable on the high seas, as well as in neutral waters, while under the protection of the neutral flag."

Mr. Seward had stated that the circumstance that the Trent was proceeding from one neutral port to another neutral port did not modify the belligerent right of capture, as based upon British authorities. This was disputed by his lordship, who said: "It is undoubtedly the law as laid down by British authorities that if the real

destination of the vessel be hostile (that is, to the enemy, or the enemy's country), it can not be covered and rendered innocent by a fictitious destination to a neutral port. But if the real terminus of the voyage be *bona fide* in a neutral territory, no English, nor, indeed, as her majesty's government believe, any American authority can be found which has ever given countenance to the doctrine that either men or dispatches can be subject, during such a voyage, and on board such a neutral vessel, to belligerent capture as contraband of war. Her majesty's government regard such a doctrine as wholly irreconcilable with the true principles of maritime law, and certainly with those principles as they have been understood in the courts of this country."

It was then observed that packet ships carrying mails, while not exempt from visit and search in time of war nor from the penalties of any violation of neutrality when proved guilty, were still entitled to the special favor and protection of their governments, and should not be detained or disturbed or interfered with unless there should be excellent reasons for doing so.

Earl Russell held that, if Mr. Seward's doctrine were true, "any packet ship carrying a Confederate agent from Dover to Calais, or from Calais to Dover, might be captured and carried to New York. In case of a war between Austria and Italy, the conveyance of an Italian minister or agent might cause the capture of a neutral packet plying between Malta and Marseilles, or between Malta and Gibraltar, the condemnation of the ship at Trieste, and the confinement of the minister or agent in an Austrian prison. So in the late war between Great Britain and France on the one hand, and

Russia on the other, a Russian minister going from Hamburg to Washington in an American ship might have been brought to Portsmouth, the ship might have been condemned, and the minister sent to the Tower of London. So also a Confederate vessel-of-war might capture a Cunard steamer on its way from Halifax to Liverpool, on the ground of its carrying dispatches from Mr. Seward to Mr. Adams. In view, therefore, of the erroneous principles asserted by Mr. Seward, and the consequences they involve, her majesty's government think it necessary to declare that they would not acquiesce in the capture of any British merchant ship in circumstances similar to those of the Trent, and the fact of its being brought before a prize court, though it would alter the character, would not diminish the gravity of the offense against the law of nations which would thereby be committed."

His lordship thought that the disposition of the question concerning the contraband nature of the men and the dispatches rendered unnecessary any discussion of the other questions raised by Mr. Seward, although notice was taken of the latter's assertion that if the safety of the Union required the detention of the commissioners, it would be the right and duty of the Federal government to detain them, but happily the waning proportions of the insurrection, and the comparative unimportance of the captured persons themselves forbade a resort to that defense. To this a haughty reply was made, as follows: "Mr. Seward does not here assert any right founded on international law, however inconvenient or irritating to neutral nations; he entirely loses sight of the vast difference which exists between

the exercise of an extreme right and the commission of an unquestionable wrong. His frankness compels me to be equally open, and to inform him that Great Britain could not have submitted to the perpetration of that wrong, however flourishing might have been the insurrection in the South, and however important the persons captured might have been."

In conclusion his lordship expressed a hope that similar dangers, should they arise, might be settled by peaceful negotiations, and requested that "this dispatch" be read to Mr. Seward and a copy of it furnished him. Such was the formal rejoinder of her majesty's government to Mr. Seward's letter conceding the British demand. It was not to be expected that silence would be maintained or that the doctrines of the American secretary of state would be acquiesced in. To pursue either of these courses would have been for the British government to concede too much, and in the estimation of itself, to lose dignity in the eye of the world.

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CHAPTER XIX.

INTERNATIONAL LAW IN THE TRENT CASE.

In any discussion of the Trent case from the standpoint of international law, all purely political phases of the matter should be omitted. That the captured persons were dangerous enemies of the United States, that they were going to Europe to secure aid in the destruction of the American Union, that the British demand for their surrender was backed by extensive preparations for war, that a refusal to give up the men meant a conflict with England and a permanently divided republic—these are all matters not easy to leave out of consideration. They have no place, however, in this chapter, since they can have no bearing upon the principles of international law which are applicable to this case.

It may be safely assumed that the right of a belligerent to proceed against a neutral in any given case depends upon the legality of the act of the neutral which it is proposed to call in question. The law of nations forbids a neutral to perform for either belligerent any service which will aid in conducting hostilities. Among the acts thus prohibited may be mentioned the transportation of either officers or dispatches when they are of a

military character; also soldiers, arms, ammunition and other things which are classed as contraband of war. Knowingly to violate this law renders a neutral ship liable to capture and confiscation.

If these premises be correctly stated, it follows that the legality of the course of the Trent will settle the question as to what Captain Wilkes had a right to do in this case. The first matter to be considered then is whether the law of nations was violated when the Confederate commissioners with their secretaries and dispatches were knowingly received on board the Trent at Havana and allowed to proceed toward their destination. If these men and their dispatches were contraband of war by the law of nations, it follows that the vessel which carried them was liable to seizure and condemnation by the Federal authorities.

In his letter conceding the British demand Mr. Seward discussed this matter and arrived at the conclusion that the commissioners and their dispatches were contraband. He said: "All writers and judges pronounce naval or military persons in the service of the enemy contraband. Vattel says war allows us to cut off from an enemy all of his resources, and to hinder him from sending ministers to solicit assistance. And Sir William Scott says you may stop the ambassador of your enemy on his passage. Dispatches are not less clearly contraband, and the bearers or couriers who undertake to carry them fall under the same condemnation." Mr. Seward also held that "pretended ministers of a usurping power, not recognized as legal by either the belligerent or the neutral," were none the less contraband and, in support of his position, quoted

from Sir William Scott, who had once expressed an opinion upon the matter, as follows: "It appears to me on principle to be but reasonable that when it is of sufficient importance to the enemy that such persons shall be sent out on the public service at the public expense, it should afford equal ground of forfeiture against the vessel that may be let out for a purpose so intimately connected with the hostile operations."

Vattel, whom Mr. Seward quotes in support of his position that ambassadors of an enemy may be cut off, wrote at a time when many principles of international law were not fully settled. His doctrines were in accordance with the illiberal ideas of international comity which prevailed in that age. The passage referred to by Mr. Seward reads as follows, when carefully translated from the original French: "His (the enemy's) people may also be attacked and seized wherever we have a right to commit acts of hostility. Not only, therefore, may we justly refuse a passage to the ministers whom our enemies send to other sovereigns; we may even arrest them if they attempt to pass privately and without permission through places belonging to our jurisdiction." [1] To illustrate his meaning more fully

[1] Vattel, Book IV, chapter 7, section 85. As further evidence that the older writers on international law did not hold to the doctrine that an ambassador may be arrested on neutral territory, Grotius may be quoted. He says: "Aliud sit si, quis extra fines suos, insidias ponat legatis alienis; eo enim jus gentium violarentur." De Jure Belli et Pacis, Lib. II, cap. 18, sec. 5. Translated as follows by Sir T. Twiss: "It is quite another thing, if any prince shall out of his own territory contrive to surprise the ambassadors of another state, for this would be a direct breach of the law of nations."

Vattel then gives an instance of what he regards as a lawful arrest, viz.: that of Marshall Belle-Isle, a French minister who was arrested in 1744 while passing through Hanover. He was seized by the troops of George II, who was then at war with France. As George II of England was also ruler of Hanover, he had a right to make the seizure in his own territory.

It is evident that Vattel means to limit the right to seize the ambassador of an anemy, and that in his opinion this right can be exercised only where one has a "right to commit acts of hostility." This can not be done on the deck of a neutral ship unless there is sufficient cause for such a proceeding. If the Trent had been conveying troops to the Confederates, or if she had escaped through a Federal blockading squadron, she would then have become liable to seizure, and acts of hostility could have been exercised against her by Captain Wilkes. Since she had been guilty of nothing of this character, it is evident that the only ground for proceeding against her was the assumption that the Confederate ambassadors were on board her and that their presence there gave to her a hostile character. But the latter fact is the test of right—a thing which we are not warranted in assuming. A neutral vessel is not a place over which one can exercise acts of hostility, unless there be evidences of a breach of neutrality. It is not a place "over which one is master." The mere fact that ambassadors of a hostile power are on board a neutral vessel is not of itself evidence of a breach of neutrality. If Captain Wilkes had made the arrest in one of the southern blockaded harbors, or if he had intercepted the Theodora and captured the commissioners,

the act would have been, in either case, entirely in accordance with Vattel's rule, but, as it was, there is certainly much room for doubt. The legal *status* of the commissioners, or the rights of a Federal naval officer toward them while on board a Confederate vessel or in a southern harbor, was quite different from their *status* on a neutral deck.

When Sir William Scott said, as asserted by Mr. Seward, that you may stop the ambassador of your enemy on his passage, the opinion was only a quotation from Vattel and was prefaced by the assertion that "you may exercise your right of war against them (ambassadors) wherever the character of hostility exists." [1] The ambassador of an enemy may be captured, then, only in those places where you can exercise acts of hostility. Mr. Seward's isolated quotation conveys a meaning different from that of the passage taken as a whole.

From the case of the Orozembo[2] (1807) Mr. Seward concludes that persons in the civil employ of a government may be captured on the passage, and that, when sent out at public expense, they may be seized, whether their government be a recognized one or not.

The Orozembo was an American vessel which went from Rotterdam to Lisbon and there took in three Dutch military officers of distinction; also two persons to be employed in a civil capacity at Batavia—the place to which the vessel was proceeding, although she falsely held out as her destination Macao, another and neutral port. It also appeared that she was under contract with

[1] Case of the Caroline, 6 Robinson's Admiralty Reports, pp. 467, 468.

[2] See 6 Robinson's Adm. Rep., 430.

the Dutch government to carry for a consideration such persons as might be designated, without regard to number. She thus became a transport ship under the control of the enemy, let to do hostile service. During the term of her contract she was subject to the orders of an enemy; her voyage in this instance began at a hostile port; it was to end at a port of the same enemy. An attempt was made to conceal these facts.

Such were the circumstances in the case which led to the condemnation of the Orozembo. The conditions under which the voyage was made and the presence on board her of three distinguished military officers would have been sufficient cause for condemnation, without taking into account the fact that she carried two officers in the civil employ of Holland. After announcing the principle that "a vessel hired by the enemy for the conveyance of military persons is to be considered a transport subject to condemnation," Sir William Scott says, "whether the principle would apply to them alone (civil officers) I do not feel it necessary to determine." He then uses the language quoted by Seward. The passage referred to by Mr. Seward is only a *dictum*—a personal opinion of the judge—and is not to be understood or construed as an established principle of public law. An able writer of international law says of this quotation: "Even as a *dictum*, it does not touch the case of a neutral vessel not let out as a transport, and merely having civil officers of a belligerent government on board, without other circumstances tending to show the vessel herself to be in the enemy's service." [1]

[1] See Wheaton's International Law, edited by Dana, note, page 641.

It appears, then, from a careful consideration of the authorities relied upon by Mr. Seward to establish the contraband character of the men, that his conclusion is not warranted.

He also held that the dispatches of the Confederate commissioners were contraband and their bearers liable to condemnation. No reason for this opinion was given save the relation of the supposed contents of the dispatches to the errand of Messrs. Mason and Slidell abroad. The only knowledge of the nature or even the existence of these dispatches was based upon information of their arrival in Europe furnished by the United States consul at Paris.[1] In the case of the Rapid (1810), an American vessel proceeding from New York to Tonningen, both neutral ports, it was held that where a neutral vessel not in the employ of an enemy transports noxious dispatches while pursuing her regular employment, her guilt depends upon the act of her master or those in charge of her, in receiving such communications. In such cases Sir William Scott laid down the rule that "the caution must be proportioned to the circumstances under which such papers are received."

[1] The commissioners had official dispatches in their possession while on board the Trent. Mr. Alfred Slidell, a son of one of the commissioners and a passenger on the Trent at the time she was stopped, said in answer to a recent letter of inquiry from the author: "At the time Messrs. Mason and Slidell were seized by Capt. Wilkes, they were, of course, in possession of their letters of credence, besides other official documents. As far as I can remember, no search was made, by the officers of the San Jacinto, for official documents, nor any attempt made to interfere with the members of the families of the four gentlemen seized."

It was held that when each terminus of the voyage is a neutral port "there is less to excite his vigilance."[1] Even this rule is relaxed in the case of diplomatic dispatches.[2] A more stringent rule would subject neutral vessels to a most irksome surveillance, and greatly disturb mail communications, since not even a single letter could be accepted with safety.

The case of the Caroline has already been cited. This was the case of an American vessel which was captured while proceeding from New York to Bordeaux in 1808. She carried a dispatch from the French minister in the United States to his own government. Sir William Scott held in this instance that diplomatic dispatches are not contraband of war, since they are not presumed to partake of a hostile nature. It is true that they may be so, but the remedy is not the capture of the ship. The redress must be political and diplomatic.

The case of the Atalanta[3] has been cited as one where diplomatic dispatches were regarded as contraband of war. There are, however, many points of difference between the case of this vessel and that of the Trent. The Atalanta was a neutral vessel which carried dispatches of an official character. They were in charge of the supercargo who planned to conceal them, and actually did this when his vessel was boarded and searched by a British cruiser. The noxious papers were discovered only by accident. This vessel also carried a French artillery officer who was disguised as a planter,

[1] See case of the Rapid, Edwards' Reports, p. 228.

[2] See case of the Madison, Edwards' Reports, p. 224.

[3] See 6 Robinson's Adm. Rep., 440–460.

and who was the real bearer of the dispatches. These facts having been proved, Sir William Scott held that the vessel was answerable for the acts of her supercargo, who had refused to grant, in good faith, the right of search, and had fraudulently concealed the dispatches which were on board. It was decided that, by such a course, the officer of the ship "lends himself to effect a communication the enemy may cut off; under protection of an ostensible neutral character, he does in fact place himself in the service of the enemy's state." The many points of difference between this case, then, and the one under consideration are quite apparent.

In Mr. Seward's letter conceding the demands of Great Britain, he held that the circumstance that the Trent was proceeding from one neutral port to another neutral port was not proof of her innocence, and that it in no way modified the right of the captor. He said that he read British authorities to this effect. Lord Russell thought this a remarkable passage in Mr. Seward's letter, and held that the fact that both *termini* of the voyage were not only ostensibly but *bona fide* neutral was conclusive evidence of the innocence of the vessel. There is certainly no good reason why this should be the rule in such cases, and if the matter is to be determined by British precedent, Mr. Seward was correct in his assumption. The case of the Rapid (already referred to) may be cited as one directly in point. In this instance the voyage began at a neutral port, and was to end at another neutral port. The Rapid was released, but this was done solely on the ground that her master had not been at fault in receiving the noxious papers for

transmission. He had, in fact, exercised all of the legal caution that was necessary in receiving them on board his ship. He had no knowledge of their contents. If, in 1810, British law regarded as innocent every vessel plying between neutral ports, this would have been conclusive in favor of the Rapid, without any inquiry whatever into the conduct of her master. The fact of neutral *termini* of her voyage would undoubtedly have been the ground of her release, if Sir William Scott had understood this to be British law at that time. Since he did not so decide, the only inference which can be drawn from his course is that he did not understand such to be the law.

Dana, in discussing the probable decision of an American prize court, concerning this matter, says: "As the official character of these persons, the general nature of their mission, and the probable general character of their papers, and the *termini* of their journey, were well known to the persons in charge of the Trent, and they took them on board knowingly and voluntarily to frank them under the neutral flag over a part of their hazardous passage, there can be no doubt that the fate of the Trent would have been the same, whether her *termini* were neutral or hostile ports."[1] Contrary opinions, however, are not difficult to find. An eminent American authority says: "The character of the vessel (*i. e.*, the Trent) as a packet ship conveying mails and passengers from one neutral port to another, almost precluded the possibility of guilt. Even if hostile military persons had been found on board, it might be a question

[1] Dana's Wheaton, note, section 504.

whether their presence would involve the ship in guilt as they were going from a neutral country to a neutral country."[1]

As an example of an opinion in which this same doctrine is carried to the extreme that of M. Hautefeuille may be mentioned. He sustains Lord Russell's position and declares without reserve that the sailing of a neutral vessel between two neutral ports is absolute and conclusive evidence in her favor.[2] This, however, is only a personal opinion not based upon judicial precedent, and hence not worthy of special consideration.

The sounder rule of international law, as deduced from the practice of both English and American prize courts, seems to be that the fact of the sailing of a neutral vessel between two neutral ports is not to be regarded as an indifferent matter in determining the question of her guilt or innocence. It is always an evidence in favor of the neutral, although not by any means a conclusive one.

The Queen's neutrality proclamation, issued at the beginning of the war, forbade her majesty's subjects from "carrying officers, soldiers, *dispatches*, arms, military stores," etc., for either of the contending parties. It has been held that this alone would have been sufficient to decide the case against the Trent. Such a view of the matter is, however, not correct. The term "*dis-*

[1] Dr. Woolsey, Introduction to the Study of International Law, section 199.

[2] See Hautefeuille's Pamphlet, "Questions of Maritime International Law."

patches," as used in the proclamation, evidently means those of a military nature only, since it is enumerated along with other words used to define operations of that kind. The language does not express or even imply any relation to communications of a diplomatic nature.

It was not the design or intent of the proclamation to lay down any new international law, but only to warn British subjects against the things already forbidden by the law of nations and by the statutes of Great Britain. It was simply an application of these various laws to the existing *status* of the belligerents.

Diplomatic persons are, by the law of nations, entitled to the special favor and protection of governments. Since Messrs. Mason and Slidell were the representatives of an unrecognized insurgent power, the question arises as to whether they were entitled to any of the immunities and privileges uniformly extended to diplomatic ministers. There is no judicial decision which bears even remotely upon a matter of this kind. On the one hand it may be said that the government represented by these men had received no sort of recognition except that of belligerency. Their mission was not the usual one of diplomatic representatives who conduct the friendly and established diplomacy of sovereign nations, but it was to obtain foreign aid for an insurrection in America, and to become recognized ministers abroad, should the independence of the Confederacy be established.

On the other hand it may be argued that where an insurgent power has been recognized as a belligerent, this carries with it the right to maintain at least informal relations with foreign states whose subjects may have

extensive material interests in the insurgent state or be temporary residents of it. The interest and convenience of foreign nations require this. To cut off all diplomatic communication, even of an informal character, in such cases, would be to declare a practical outlawry against a nation already in possession of the rights of belligerents. Such a course would also prevent any new nation from ever becoming recognized as sovereign and independent. Informal diplomatic relations must precede formal ones, and if the former be entirely cut off, how can the latter be established at all? Informal diplomatic relations were held between the representatives of the South American republics and the United States government, prior to the recognition of the independence of the former.[1] If a diplomatic agent of one of these insurgent republics had embarked on a United States merchant vessel at some neutral foreign port, with the design of coming to New York, and if this vessel had been stopped by a Spanish man-of-war, and the diplomatic agent forcibly removed, or if the American ship had been captured for no other reason than the presence on board her of such an emissary, it is doubtful whether the United States government would have quietly acquiesced in either of these proceedings.

If it be conceded that informal diplomatic relations may be held between an unrecognized government and a foreign state, this would seem to carry with it the right to whatever of immunity is necessary to make such relations effective. Whenever an international law court shall be called upon to decide this question, it will

[1] See J. Q. Adams's Memoirs, Vol. v, chapter 12.

have to be done upon principle and without the aid of a judicial precedent.

In considering the question as to whether the Confederate commissioners were contraband of war or not, Captain Wilkes's theory that they were "the embodiment of dispatches" or "living epistles," deserves a brief notice. It was only a cleverly devised fiction of public law, and of no value. It has never received any recognition whatever from official or authoritative sources. Dr. Woolsey says: "It is simply absurd to say that these men were living dispatches."[1] Count de Gasparin says: "The doctrine of *man dispatches* is the weak side of the American argument. In such a matter, it is not permissible to extend by force of reasoning, or even *a fortiori*, the categories fixed by the law of nations."[2]

Captain Wilkes had an undoubted right to stop and search the Trent for contraband of war. Officially, it was neither denied nor complained of by the British government. Writers on international law are practically unanimous in their support of the doctrine that a belligerent cruiser may search neutral ships for contraband, in time of war. This is a right that is both just and necessary, since it is the only way by which the belligerent may ascertain beyond doubt whether the neutral is performing contraband service for an enemy.

In the beginning of this discussion it was stated that the right of Captain Wilkes to capture the Trent depended upon the legality of her act in carrying the men and their dispatches, and that this, in turn, depended

[1] Introduction to the Study of International Law, section 199.
[2] "L'Amérique devant l'Europe," chapter on the Trent.

upon their contraband character. When Mr. Seward assumed that they were contraband, the burden of proof rested upon him. He appealed to British authorities only in support of his position. If the present examination of these authorities has shown that Mr. Seward's position was untenable and that the men were not contraband of war, it follows that Captain Wilkes had no right to capture the Trent, unless there were other reasons for such a procedure. If no such right existed then, clearly, no right was waived—as claimed by Mr. Seward—when she was permitted to proceed upon her journey instead of being brought into port for adjudication. If the men and their dispatches were not contraband of war, there appears to be no valid reason for the capture.

It can not be held that the United States had the right to seize them as an exercise of ocean police powers, such as England practiced a half century before when she took out of neutral ships men of pretended English birth. Any such position was disclaimed by Mr. Seward, and it is a matter of history that the United States has always denied the existence of such a right.

Neither can it be pretended that the seizure was justifiable because the men were rebels or political offenders, no matter what the relation of their government was to the other governments of the world. The United States has always maintained the right of asylum for this class of men, and the right of a foreign power to do this in the case of American offenders could not be consistently denied. A criminal or a traitor can not be taken from the protection of a neutral foreign flag except in accordance with the provisions of a treaty be-

tween the powers providing for the extradition of such offenders according to forms of law.

If, independently of the fact that the commissioners and their dispatches were on board, there had existed any valid reason for seizing the Trent and bringing her into port, this course could have been pursued, and, as soon as she had entered American waters, these men, being citizens of the United States, would have been amenable to the laws of their country. Their arrest and imprisonment then would have been entirely legal. It would have been, in that case, only an incidental matter which could be in no way connected with the capture and detention of the vessel upon which they traveled.

If the Trent had been brought into port, a prize court would have met with difficulties in adjusting the case. Maritime law deals only *in rem*, that is, with things or property, not with persons. The ship and her cargo would have been either condemned as prize or released with an award of damages to her owners. But whatever the decision of the court concerning the vessel and her cargo, the *status* of Messrs. Mason and Slidell would have been precisely the same. Dana, in reviewing this matter, says that under these circumstances they "could not be condemned or released by the court. They would doubtless have been held as prisoners of war by the United States government. In the event of a decision favorable to the captors, the case of the persons would still be a diplomatic one." [1]

If American doctrine had been consulted, Mr. Seward could have found in it nothing to sustain his views

[1] Wheaton's International Law, section 504, note.

concerning the contraband character of the men and their dispatches. The United States government, from the earliest period of its history, had pursued a maritime policy entirely different from that sustained by Mr. Seward in his dispatch conceding the British demand for the surrender of Messrs. Mason and Slidell. The doctrine, announced by the founders of the American republic in their earliest state papers and steadily adhered to thereafter, was not left to the uncertainties of maritime court decisions, but was put into the form of positive law and made a special part of the treaty stipulations with foreign countries. In the very first treaty ever made by the United States with a foreign power, namely, the one negotiated with France by Benjamin Franklin in 1778, it was provided that no class of persons should be taken out of a free ship except "soldiers in actual service of an enemy." This same doctrine was re-affirmed in an unbroken line of treaties—eighteen in number—negotiated with foreign countries prior to the period of the civil war.

In all of these treaties it was expressly provided that nothing should be considered as contraband of war except the things therein specified and enumerated. Non-military dispatches were not enumerated in the list of contraband, and hence could not be classed as such. It is true that the language of these treaty stipulations had never been passed upon by any American courts of admiralty, but nothing of this kind was necessary, for the terms used were so definite and precise that no other construction could possibly have been placed upon them. British prize courts passed upon the guilt or innocence of the American ships referred to in this chapter, because

there was no treaty between the two countries by which contraband of war was defined in precise terms.

Where no such treaties existed between these two countries, it can not be held that anything is positively proved by the argument here offered, but the conclusion to be drawn by analogy is self-evident.

It would have been more consistent with the past record of American diplomacy, if the release of the Confederate commissioners had been made upon the ground that the law of nations, as understood and interpreted by the United States government, does not permit a belligerent to take from a free neutral ship either non-military dispatches or any class of persons except officers or soldiers in the actual service of the enemy. It is to be regretted that the men were surrendered upon the ground that although they and their dispatches were contraband, yet the right to retain them had been forfeited when Captain Wilkes voluntarily released the Trent instead of bringing her into port for adjudication.

The following general conclusions seem to be warranted from a careful examination of the Trent case:

1. The commissioners were not contraband of war in any sense of that term.

2. Their dispatches being of a non-military character were not contraband of war.

3. A neutral power is entitled to hold necessary informal relations with an unrecognized belligerent.

4. The Trent had in no way violated her duties as a neutral ship when she was stopped by the San Jacinto.

5. Captain Wilkes had an undoubted right to stop and search the Trent for contraband of war. In the absence of anything of this character, only resistance to

the right of search would have made the Trent liable to capture. As a matter of fact her captain did refuse all facilities for search and made it known that he yielded only to superior force. What view a prize court might have taken of this can be only a matter of conjecture.

6. In any event Captain Wilkes had no right to seize the persons or dispatches of the Confederate commissioners while they were on board the Trent on the high seas.

7. Viewed solely from the standpoint of international law, sound reasons were not given for the surrender of the commissioners by Secretary Seward.

Mr. Blaine says: "It is not believed that the doctrine announced by Mr. Seward can be maintained on sound principles of international law. The restoration of the envoys on any such apparently insufficient basis did not avoid the mortification of the surrender; it only deprived us of the fuller credit and advantage which we might have secured from the act. It is to be regretted that we did not place the restoration of the prisoners upon franker and truer ground, viz., that their seizure was in violation of the principles which we would not abandon either for a temporary advantage or to save the wounding of our national pride." [1]

Viewed from any standpoint Mr. Seward's position is untenable. If it had prevailed and had been fully recognized as a doctrine of international law, a backward step in maritime affairs would have been taken. Instead of enlarged rights for neutrals and a greater freedom upon the ocean, there would have been a re-

[1] Twenty Years of Congress, Vol. I, p. 585.

turn toward the narrow and illiberal maritime policy which prevailed during the Napoleonic wars. Reprisals would have been invited; naval commanders everywhere would have been transformed into admiralty judges; and every neutral deck would have been liable to be changed into "a floating judgment seat." American maritime policy and principle would have been reversed.

The right to capture the Confederate commissioners seemed very dear to the people of the North. By the surrender of the captured persons, all of the immediate results of the seizure were lost. Although the sacrifice seemed a grievous one, yet the apparently unfavorable outcome of the whole matter, from the standpoint of international law, was a benefit not only to the United States but to the world. It was a vindication of the principle for which America had always contended. England having committed herself to the American doctrine, it became, in this unexpected manner, firmly and forever imbedded in the principles of international law. A triumph was thus realized, for there remained not a single nation in all the world to dispute this principle.

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CHAPTER XX.

REFLECTIONS ON THE COURSE OF THE BRITISH GOVERNMENT.

AFTER the lapse of a third of a century the course of the British government in the affair of the Trent may be considered calmly and without passion or prejudice. In the absence of such influences, it should be easy to draw correct conclusions concerning the motives which controlled the action of the English ministry on that occasion. The facts which have been presented in former chapters speak for themselves. Extended comment upon them is unnecessary.

In view of all the circumstances of the case there can be but one conclusion possible, and that is one which is unfavorable to England. The action taken by her government in that instance was unwarranted by the nature of the case; it was not consistent with either the pretended position of England as a leader of civilization or with the past record of that country as regards her treatment of neutrals; and last but not least, her course was adopted and pursued with the intention of deliberately menacing the United States of America at a time when they were already engaged in a deadly struggle, and least able to resent foreign insults.

It is true that no government can hope to maintain the respect of the civilized world, if it tamely submits to wanton outrage perpetrated against its flag. When premeditated insult is offered, the national honor should be vindicated, although it be necessary to do so by an appeal to arms, and the fortunes of even a doubtful war. These things have been urged in justification of the conduct of the British government in the affair of the Trent.

It is not true that the act of Captain Wilkes was an "outrage on the British flag," as has been so often affirmed by apologists for the course pursued by England on that occasion. The seizure of the southern commissioners was not an act which can be said to possess any of the essential qualities of outrage. It was done, as has already been stated in a preceding chapter, without any authority whatever from the Federal government. Although the proceeding was irregular, and not sanctioned by the principles of international law, there existed on the part of Captain Wilkes not the slightest intention to offer an affront to the British flag. Filled with patriotic zeal to serve his own country he was guilty of having stopped a British mail packet on the high seas and taken from her four American citizens, insurgents, proceeding to Europe in the hope of securing assistance there to accomplish the ruin of their country. No harm was done or offered to the person or property of any British subject. It did not lie within the power of Captain Wilkes to insult the British nation unless his act had been previously ordered by his government or afterward sanctioned by it.

It often happens in war, and not infrequently in peace,

that an act not permitted by the law of nations will be done toward a neutral by some over-zealous commander of a single cruiser. In such a case, the government of the injured party, after having been officially informed of the matter, usually brings it to the notice of the offender's government and seeks redress through diplomatic means upon the assumption that the act complained of was done without authority. This is the recognized and proper method of adjusting such cases among friendly civilized nations. Such cases are constantly being settled in this friendly and pacific manner without even a hint or a thought of a resort to arms by either party. Quite a different course was pursued in England on this occasion. "Within a week the demand for reparation was on its way to America; within a fortnight, several of the finest regiments in the Queen's army were on their way to Canada; immense stores of war were embarked; the *matériel* of a considerable army was in readiness; a fleet of incomparable power was in commission which would have been tripled at the first moment of hostilities; the sea-faring population joined the naval reserve with alacrity; and throughout the nation one spirit prevails of absolute confidence in its rulers, and absolute determination to maintain its rights."[1]

This would have been justifiable in case of a deliberate and premeditated insult for which the offending government was undoubtedly responsible. In the case under consideration there was nothing in question except the isolated act of the commander of a single detached cruiser. Upon the mere hearing of this one such

[1] Edinburgh Review, Vol. cxv, p. 284.

act, the British government made an instant and peremptory demand for reparation which was dictated by themselves and backed by more active preparations for war than had been made in that country since the Napoleonic era.[1] No one knew whether the act had been committed in pursuance of instructions from the Federal government or not. There was to be no discussion of the case; no consideration of what the American government might have to say; no arbitration or diplomatic means of obtaining redress in accordance with the practice of friendly nations. The United States were given the alternative of acceding to the peremptory demand of Great Britain or of engaging in a war with that country.

The first communication to the Washington government was an ultimatum—a last and only condition, a beginning with the end. The natural beginning in such a case would have been to ask for an explanation of intentions, and to demand reparation of the wrong done, without at the same time preparing for war. In discussing the English ultimatum Count De Gasparin says: "Public opinion, moreover, was aroused in Europe with unforeseen rapidity; the precipitation of the measure adopted at London was judged severely; the clause concerning apology was also abandoned in fact. But it is no less incredible that it figured in the original programme. Little children are made to ask pardon, the humiliation of apology is inflicted on countries without regular government, on Turks and savages; between nations which respect each other mutually, it is always deemed suffi-

[1] See Life of Thurlow Weed, Vol. I, p. 643.

cient satisfaction to repair the wrong and deny the hostile intention."[1]

The Morning Post and other London newspapers defended the ultimatum on the ground that the act of Captain Wilkes was the last of a series of hostile acts designed to bring about a war. It was said that the United States were seeking a pretext for declaring war against England, and that Mr. Seward desired to heal the domestic difficulty by proposing to reconcile all differences with the South and make a common assault on Canada. They said that if war must come it is best to choose one's own time instead of awaiting the inevitable.

These statements are too silly to deserve serious consideration. In refuting these absurdities, Count De Gasparin says:[2] "I have followed the progress of events in America as attentively as any one, I have read the American newspapers, I have studied documents, among others the famous circular of Mr. Seward; I have seen there more than one sign of discontent with the unsympathizing attitude of England; I have also seen there the symptoms of the somewhat natural fear which the intervention of Europe in Mexico excites in men attached to the Monroe doctrine; but as to these incredible plans (annexing Canada, etc.), I have never discovered the slightest trace of them." It was only Englishmen who could discover such plans.

An ultimatum to the Federal government—one prepared and forwarded without seeking explanations—was the panacea for English wounded honor in this in-

[1] "L'Amérique devant l'Europe," chapter on the Trent.

[2] See the last chapter of his "Un Grand Peuple qui se relève."

stance. Only five years before, in the Paris congress, an Englishman, Lord Clarendon, had proposed a rule of arbitration that he said would be a "barrier to those conflicts which not infrequently break out only because of the impossibility of offering explanations or of coming to an understanding."

This was a question introduced by the English government. It was discussed with earnestness, and a final vote postponed until the Russian representative could obtain the views of his government by telegraph. The unanimous declaration assented to by all the powers, including the United States, was as follows: "The plenipotentiaries do not hesitate to express the wish, in the name of their governments, that states, between which serious dissensions may arise, shall have recourse to the good offices of a friendly power, as far as circumstances permit, before appealing to arms."

If there has ever been a case where this rule, proposed and adopted at the suggestion of England, could be applied advantageously, it was certainly in the instance under consideration. A war was about to break out through "the impossibility of offering explanations, or of coming to an understanding." This proposition, so earnestly made and so cheerfully assented to only five years before, was utterly disregarded at the first opportunity to put it into practice. This was an inconsistency, not creditable to English character.

There was absolutely nothing in the affair which justified a menace of war, and, if the British government ever believed that such was the case, it was soon undeceived. It has already been stated in a previous chapter that on November 30, Mr. Seward took the

precaution to write to Mr. Adams at London, and inform him that the act of Captain Wilkes was entirely upon his own responsibility, and without instructions from the government; that the United States was uncommitted and ready to meet Great Britain half way in any sort of a friendly disposition of the matter.

On December 19 Mr. Adams called upon Lord Russell at the foreign office, and read the dispatch to him. This was an absolute assurance that any reasonable terms would be accepted, and that all warlike demonstrations were needless. This pacific dispatch from Mr. Seward, however, did not have the slightest effect upon the British government. All knowledge of the dispatch or even of the interview was carefully concealed from the British public lest this assurance—given in advance —of a willingness to settle the matter in a peaceable manner, would destroy the warlike enthusiasm which was then so nearly universal among the British people. The preparations for war continued with unabated vigor. The British government did not care to take into consideration anything just then that would interfere with the parade of its military power, which was being made in order to overawe the United States and secure the concession of the English demands.

Mr. Adams regarded the contents of the dispatch as confidential and so took care that no one outside the legation should know of its existence or of the interview with Lord Russell. Finally certain London newspapers published rumors of the whole matter. On December 21 the Morning Post, the organ of the ministry, hastened to publish, in large type, the official contradiction of the news, and stated that no dispatch had been

received which had the slightest bearing on the Trent case. Only a few days later the Observer published a summary of all the events relating to the case, at the close of which was a fairly correct account of the substance of Mr. Seward's dispatch of November 30. "After the appearance of that," says Mr. Adams, "I had no hesitation in disclosing to persons with whom I conversed my knowledge of its correctness. It was then with no little surprise that they perceived last week, when intelligence was received from America of the existence of such a paper, a formal denial in the Post that any such paper had ever been communicated to the British government. No longer able to deny the existence of it, the next step was to affirm that I must have suppressed it. And not satisfied with that, the same press went on to supply a motive for doing so, in the fact that certain American parties had about the same time appeared in the market buying up stock, which was the cause of the rise in the funds already alluded to. Of course the assumption was that I was engaged in a heavy stock jobbing operation for my own benefit and that of my friends." [1]

The Post evidently wanted to have the British public believe a falsehood as long as possible. Finally Lord Russell's account of the matter, as given in a note to Lord Lyons, was published and the case was clear to all. But the Post remained silent. It made no retraction of its statements; no justification for making them; neither did it disclaim the authority upon which they were made.

There seemed to be an eagerness on the part of the

[1] Mr. Adams to Mr. Seward, Jan. 17, 1862.

British government to seize on the occasion and to grasp the pretext for making war. It was loth to give up this chance which had been so hastily accepted. Peace was not wanted, but war. A kindred people were already engaged in a struggle for their very existence, yet, for a difference which it was easily possible to arrange by diplomatic means, this professed leader of civilization and boasted enemy of human slavery did all in her power to make a conflict inevitable and the triumph of an insurgent slave republic certain. A few almost unknown Englishmen presented an address to the prime minister at this time. It was an appeal from the Anti-Slavery Society. The case was well stated. They said: "Such an undertaking on the part of England would not only be most humiliating, but would lamentably contradict her past efforts and former sacrifices for the liberty of slaves; it would expose her protests to the reproach of hypocrisy from the rest of the world; it would destroy her claim and close her lips henceforth to every appeal addressed to the intelligence and conscience of other nations. The members of the society experience inexpressible horror and repugnance at the thought of seeing their country engaged in a war the virtual end of which would be the defense of slavery."

The circumstances of this case permitted "recourse to the good offices of a friendly power" before rushing to arms. This would probably have been proposed by the United States, if any opportunity to do so had been permitted. It is known that this method would have been most satisfactory to President Lincoln. But the English view of the case was that a blow had been received and this was not a matter which admitted of

arbitration. It must be settled by war unless the British demands were instantly granted. It was not an ordinary infraction of international law; it was an enormity, and therefore entirely proper that the first message sent to Lord Lyons should instruct him to demand his passports in seven days if the Federal government did not submit fully to the conditions dictated by England.

Captain Wilkes's error was entirely excusable. It was in no respect like any of the genuine outrages which England has been guilty of in her dealings with America. In 1795 the British war ship Africa entered American waters with the avowed intention of seizing M. Fauchet, the French minister to the United States. He was traveling from New York to Newport in the packet Peggy, a neutral American vessel. Having received intimations of the intention of the commander of the Africa, M. Fauchet left the American vessel at Stonington, Conn. When the Peggy had arrived almost at the harbor of Newport, and while within the maritime jurisdiction of the United States, she was boarded from the Africa, the trunks of the passengers were searched and great disappointment shown on account of the absence of M. Fauchet. The British vice-consul at Newport aided in this matter. These facts show that the French minister to the United States escaped seizure, only because he had left the American packet a few hours before. [1]

For three quarters of a century England maintained and practiced the "right of search and seizure." "The victims were counted by thousands. Lord Castlereagh himself admitted, on the floor of the House of Com-

[1] See Senate Executive Document, No. 4, 37th Cong., 3d Sess.

mons, that an inquiry instituted by the British government had discovered in the British fleet three thousand five hundred men claiming to be impressed Americans. At our department of state six thousand cases were recorded, and it was estimated that at least as many more might have occurred, of which no information had been received. Thus according to this official admission of the British minister there was reason to believe that the quarter-deck of a British man-of-war had been made a floating judgment-seat three thousand five hundred times, while according to the records of our own state department, it had been made a floating judgment-seat six thousand times and upwards, and each time an American citizen had been taken from the protection of his flag without any form of trial known to the law."[1] The practice was pursued with the utmost arrogance and without discrimination among those who were liable to seizure. On one occasion two nephews of Washington, returning from Europe, were seized on board an American vessel and placed under the ordinary discipline of a British man-of-war.

In 1837 a body of British troops entered the territory of the United States, seized the American steamer Caroline, which, it was claimed, had rendered some sort of service to the rebellious Canadians, set her on fire and allowed her to drift over the Falls of Niagara. But it is unnecessary to extend this list of outrages. There are enough of them to satisfy any one that the London Times was correct when it admitted that Great Britain was not "immaculate."

In commenting upon this matter, Mr. Blaine says:

[1] Sumner's speech on the Trent affair.

"Whatever wrong was inflicted on the British flag by the action of Captain Wilkes had been, time and again, inflicted on the American flag by officers of the English navy, without cause, without redress, without apology. * * * But in view of the past, and of the long series of graver outrages with which Great Britain had so wantonly insulted the American flag, she might have refrained from invoking the judgment of the civilized world against us, and especially might she have refrained from making, in the hour of our sore trial and our deep distress, a demand which no British minister would address to this government in the day of its strength and its power." [1]

In conclusion it is worthy of remark that, with unimportant exceptions, the relations of the United States with the various countries of continental Europe have always been of the most friendly and agreeable character. In the revolution, France recognized the struggling Americans and furnished them timely and substantial aid. Russia has always been the steadfast friend of America and probably would have aided the United States in a third war against England in 1861.

War in the early history of the United States, and, in later times, a succession of diplomatic disputes which have often threatened war, constitute much the larger portion of the record of Anglo-American international relations. This should be a matter of sincere regret in both countries. President Buchanan stated the case well when he said, "No two nations have ever existed on the face of the earth which could do each other so much good or so much harm." [2] It is for this reason that

[1] Blaine's Twenty Years of Congress, Vol. I, pp. 586–7.

[2] Ex. Doc., 2d Sess. 35th Cong., Vol. II, p. 2.

every friend of either country should desire that the next century of their relations may be one of continuous peace and good-will.

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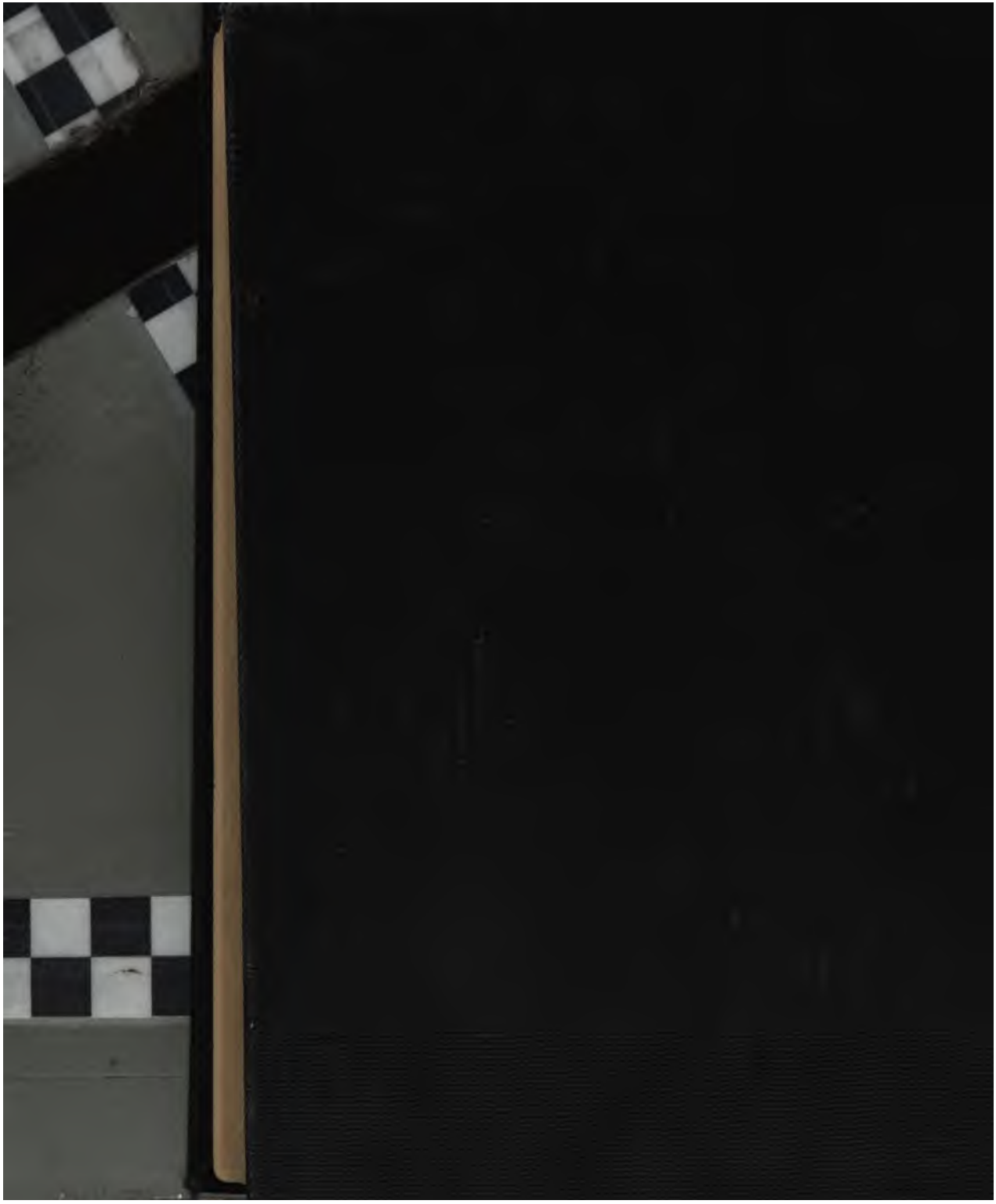
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